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# Letter dated 15 July 2009 from the Chargé d'affaires a.i. of the Permanent Mission of the Sudan to the United Nations addressed to the President of the Security Council

In view of the upcoming consultations by the Security Council on the report of the Secretary-General on the implementation of the Comprehensive Peace Agreement (CPA), I have the honour to transmit to you, and through you to the esteemed members of the Security Council, the latest progress report on the implementation of the Comprehensive Peace Agreement as of 10 June 2009 (see annexes). The report reflects the remarkable progress achieved in the different aspects of the implementation of the CPA.

I would be grateful if the present letter and its annexes could be circulated as a document of the Security Council.

(*Signed*) Hassan Hamid **Hassan**
Chargé d'affaires a.i.

Please recycle

Annex I to the letter dated 15 July 2009 from the Chargé d'affaires a.i. of the Permanent Mission of the Sudan to the United Nations addressed to the President of the Security Council

# Republic of the Sudan

## The Presidency

# The progress of the implementation of the Comprehensive Peace Agreement (CPA)

10 JUNE 2009

*"Implement the Peace*
*Agreement so as to make the*
*unity of The Sudan an*
*attractive option"*

Machakos Protocol
July 20th, 2002, (part A:1.5.5)

# Contents

## *CPA implementation progress and political partnership :-*

- ✓ **Power-sharing Protocol.**
- ✓ **Wealth-sharing Protocol.**
- ✓ **South Kordofan and Blue Nile Protocol .**
- ✓ **Abyei Protocol .**
- ✓ **Military and Security arrangements.**
- ✓ **Political partnership between the NCP and the SPLM.**

# Power sharing Protocol

## Constitutional legislative , Executive and Judiciary bodies :-

*(1) Interim National Constitution (I.N.C) enacted , accordingly the following constitutional legislative , executive and judiciary bodies have been* Established :

- ✓ ***The Presidency .***
- ✓ ***Government of National Unity (GONU).***
- ✓ ***National Assembly (N.A).***
- ✓ ***Council of States (C.o.S.).***
- ✓ ***Government of Southern Sudan (GOSS).***
- ✓ ***Southern Sudan legislative Assembly (SSLA).***
- ✓ ***State legislative Assemblies.***
- ✓ ***State Governments.***
- ✓ ***Constitutional Court.***
- ✓ ***National ,southern Sudan and State Judiciaries.***
- ✓ ***National commissions, councils and committees.***

## 1.1 National commissions, councils and committees :-

- **(A) Established :-**

✓ *National Constitutional Review Commission (NCRC).*

✓ *Assessment and Evaluation Commission (AEC) .*

✓ *National Judicial Service Commission (NJSC).*

✓ *National Civil Service Commission (NCSC) .*

✓ *Technical Border's Committee (TBC ) to draw the 1/1/ 1956 Borders between North and South Sudan .*

✓ *National Population Census Council (NPCC)*

✓ *Special Commission for the protection of the rights of non-Muslims in the National Capital .*

✓ *National Security Council (NSC).*

✓ *National Security Service including its branches in the states .*

✓ *Council of Political Parties.*

✓ *The National Electoral Commission (NEC) .*

✓ *National Council for the development and promotion of the national languages.*

## 1.2 The North/South Boarder's Committee

The Committee had been established on September the 8th 2005.

The work of the Committee is purely technical and depends on documents.

Approved its internal rules ( procedural and technical ) which regulate and set the priority of the documents .

Started its work after a delay (the nomination of the representative of the Government of Southern Sudan ) of about six months.

The collection of the documents (inside the country and abroad took more than a year).

The Committee almost finalized the delimitation (on paper) of the Eastern sector and shifted to the middle sector.

Recently , in a meeting with the Presidency , has been agreed to finalize the delimitation by the end of Sep 2009, and to finalize the demarcation (on ground ) by the end of Dec 2009.

## 1.3 Population Census

The census was planned to take place before July 2007.

The census was delayed to November 2007 on a recommendation from GOSS due to the incompletion of the technical preparatory works in the South before the rainy season .

It was again delayed to February 2008 on a request from GoSS due to the to the same.

A third delay to April 2008 occurred also on a request from GoSS due to the to the same .

The National Census Monitoring Committee issued its report confirming the professionalism, transparency and fairness of the census.

Results were approved by the technical working group (the national and southern sudan bureaus and the monitoring committee ).

Accordingly passed by the National Population Census Council (NPCC).

Accordingly approved by the Presidency in its meeting on Wednesday the 6th of May 2009

The Presidency passed the results to the chairman of the National Electoral Commission to determine the geographical constituencies

## 1.4 Elections

- Electoral Law signed by The President on 14th of August 2008.
- The National Elections Commission (NEC) was established on 13th of November 2008.
- NEC announced the full time table for elections' processes at all levels up to the voting in Fed 2010 .
- Preparations underway for fair, free and transparent elections covering the Presidency, the National Assembly, the Council of States (through elected state assemblies ) , the Southern Sudan President , the Southern Sudan Assembly , state assemblies and state Governors.
- NEC received the census results from the Presidency on 6th of May 2009 to determine the geographical constituencies.

## 1.5 Review and enactment of national laws:

- To conform with the National interim Constitution .
- Several acts were passed by the NA (e.g) (electoral, human rights, media and press, criminal, criminal procedures, national police and army bills ,central bank, national currency, National Land Commission).
- Others are underway including the National Security Act.
- Southern Sudan Referendum Bill is under consideration in the NCRC .

## 1.6 Repatriation and resettlement :

High level joint committee (GONU/GOSS) formulating policies and monitoring activities to resettle the internally displaced persons (IDPs) and to repatriate the displaced (south Sudan, Blue Nile and Southern Kordofan States) .

In collaboration with the UN agencies and the international community .

Agreements signed with the relevant neighboring Countries to facilitate their repatriation .

**(2) National commissions under establishment :**

*•Human Rights Commission (HRS)- Legislation passed by the NCRC , Council of Ministers and National Assembly*

*•National Land Commission (NLC) - Legislation passed by the NCRC and Council of Ministers and National Assembly .*

*•A accordingly the Presidency will appoint the two commissions soon.*

# Wealth Sharing Agreement

**(1)National commissions, councils and committees:-**

- **National Revenue Fund (NRF)** .

- **Fiscal, Financial and Allocation Monitoring Commission (FFAMC)**

  To *ensure prompt transfers to the national , southern Sudan and state government levels from the (NRF) in line with the North / South wealth sharing allocation and the yearly agreed allocation formula between the National and Sub- national levels (vertical and horizontal ).*

- **National Reconstruction Fund**

  For the rehabilitation ,reconstruction and development of the war-affected and less- developed areas in the North).

- **National Petroleum Commission (NPC)**

  *Formulating policies on the oil sector and monitoring implementation .*

- **Joint Technical Committee (JTC)**

  GoNU & Goss are equally represented in the JTC.

  *It monitors production ,allocates and calculates shares of different levels and monitors transfers of the shares.*

- *It produces monthly its report (published in the Web.)*
- Since the CPA was signed up to April 2009, the GoSS has received over US$ 6.5 billion in oil revenues from the GoNU.

- **Joint Non – oil revenues committee:**

  To effect the collection in Southern Sudan including customs , federal Taxes and others .

  The recent world financial crisis and drop of oil prices had it's impact on revenues of both GoNU and GoSS.

## (2)The Central Bank of Sudan (CBOS):

- The Board of directors restructured and a deputy governor from South Sudan appointed.
- Formulated the dual banking system (Islamic and conventional ).

- Established its branch in Southern Sudan (BOSS).
- To foster a sense of national unity a new currency (Sudanese pound) had been issued on January 9, 2007, and was successfully phased in over the period ending 31 August, 2007 (primarily financed by GoNU due to failure of the donors to deliver promptly ).

## (3)Joint Transitional Team (JNTT)

- Established as early as the interim period for the coordination of the joint assessment mission (JAM) which identified reconstruction and development projects for national, southern Sudan and war - affected areas.
- First donors consortium convened in Oslo as early as the pre-interim period, and four others for follow-up were held later in Paris, Khartoum and Oslo .

## (4)Multi –Donor Trust Funds (MDTFs):

- Two funds established (national and southern sudan ).
- With national and sub-national oversight committees.

**(5)** High- level joint committee (GOUN/GOSS) established to look into the implications of the international financial and economic crisis on both national and Southern Sudan budgets and economies, and seek remedies .

# Blue Nile and Southern Kordofan states Agreement

**After the approval of the two states‘ constitutions, the constitutional bodies established :**

- State assemblies according to the power sharing formula in the agreement.
- State governments established according to the power sharing formula in the agreement (governors by rotation of the parties effected ).
- State Judiciaries .
- State security committees .
- Assessment and Evaluation Commissions established in the two States.
- A joint NCP/SPLM committee had been formed to look into outstanding issues in the two states.
- SPLM continues to close areas used to be controlled by it during the war.

# Abyei Protocol

- ✓ The two parties disagreed on the report produced by the experts of the Abyei Boundaries Commission (ABC) with respect to the definition of the Abyei area (1905) which hindered the establishment of Abyei administration with the special status (anchored to the Presidency according to the Protocol ).
- ✓ The two parties in May 2006 agreed on four options for the way ahead (a political solution or consideration by the Constitutional Court or arbitration or inviting the experts to defend their report).
- ✓ Then the two parties engaged in a prolonged political negotiation in order to establish an interim administration on an interim area while seeking a final settlement .
- ✓ Before finalizing the interim arrangements sought, a military confrontation took place in the area in May 2008 .
- ✓ The two parties contained the situation by an agreement singed at the CPC specifying military de-escalation, establishment of an interim Joint civil administration and humanitarian measures , appealing to the Presidency to expedite the finalization of peaceful resolution and engaging the CJMC for an investigation in the incident.

- Finally , a political solution has been reached by the two parties (June 2008) which identified an interim area to establish an interim administration to effect the security ,power and wealth sharing arrangements related to Abyei protocol for a period of six months (The chief administrator and his deputy from the two parties were appointed) .
- A (Unity Fund) was established to foster socio- economic development – infrastructure , and services( health , education, agriculture and veterinary )along the transitional zones between the North and the South to enhance peace , stability and national unity .
- The two parties agreed, for the final solution, to resort to arbitration which they did.
- The entire arbitration process shall be completed within a period not exceeding six months – subject to an extension for a period of three months.
- The result of the arbitration is expected in July 2009.

## Military and Security arrangements

**The Ceasefire in all zones is overwhelmingly holding since the signing of the comprehensive ceasefire agreement with the exception of a few incidents contained instantly with full cooperation of the political and military leaderships and the UNMIS.**

**) (JIUs), established** in accordance with the joint integrated units (JIUs) bill enacted,.

**)Joint Defence Board (JDB) formed** accordingly and chaired rotationally.

**)Co-chaired Ceasefire Political Commission** (CPC) including, beside the parties ,the UN Peace support Mission military force (UNMIS) formed and operates Immediately .

**)Ceasefire Joint Military Committee**_(CJMC) including Area Joint Military Committees (AJMCs) formed and operates immediately (supervised by the CPC).

**Annex II to the letter dated 15 July 2009 from the Chargé d'affaires a.i. of the Permanent Mission of the Sudan to the United Nations addressed to the President of the Security Council**

Date: 8 July 2009

## The shares and transfers to the Government of Southern Sudan (GOSS) and the relevant southern states from the net oil revenues for the years (2005 – 2006-2007 -2008) and up to May 2009(*)

**Million US$**

| **Year/Month** | **GOSS (50% share )** | **Unity State (2% share)** | **Upper Nile State (2% share)** | **Grand Total to GOSS and southern states** |
|---|---|---|---|---|
| 2005 | 798.40 | 32.59 | - | |
| 2006 | 953.30 | 38.14 | 0.77 | |
| 2007 | 1457.83 | 37.19 | 22.31 | |
| 2008 | 2888.11 | 45.05 | 60.02 | |
| 2009/ January | 42.07 | 0.60 | 0.22 | |
| February | 30.836 | 0.630 | 0.453 | |
| March | 54.504 | 0.603 | 1.428 | |
| April | 51.070 | 1.153 | 0.624 | |
| May | 63.427 | 0.868 | 1.446 | |
| **Total** | **6339.536** | **156.824** | **87.271** | **6583.631** |

*(*)A summary of the reports of the Joint Technical Committee (GONU /GOSS) for Monitoring Net Oil Revenues for the years 2005 -2006-2007 – 2008 and up to May 2009.*

## Annex III to the letter dated 15 July 2009 from the Chargé d'affaires a.i. of the Permanent Mission of the Sudan to the United Nations addressed to the President of the Security Council

1

5th Population Census Council
Monitoring & Observation
Committee (MOC)

مجلس الإحصاء السكاني الخامس
لجنة المراقبة والمتابعة

NO:..................

Date: 11 April 2009

### Process Evaluation Report of the 5th Population Census of Sudan

Preamble

Sudan conducted its 5th Population Census from April 22nd to the 6th of May 2008 following a protracted three year planning and consultation process that at times displayed traces of intractable challenges of a country emerging from half a century of conflict. The 5th Population Census of Sudan had a constitutional requirement which tied the undertaking to the 2005 Comprehensive Peace Agreement. The 5th Population Census of Sudan was conducted under the supervision of an independent multi-party stakeholder body known as the Monitoring and Observation Committee. I have been the Chief Adviser to the Monitoring and Observation Committee.

Observations

Having been involved and studied a number of census undertakings and plans, especially of countries emerging out of conflict, and having been engaged in the 5th Population Census of Sudan as an observer for almost two years, I make the following observations:

1. The 5th Population Census of Sudan was conducted under very challenging circumstances
2. The different phases of the 5th Population Census of Sudan has been exceptionally well documented and recorded
3. All the phases of the Census have been under expert observation and assessment and these guaranteed transparency of the process
4. The observers and monitors consisted of independent national and international experts
5. The reports of these experts are above board in terms of independence of observation and technical assessment. The experts note the challenges that confronted the 5th Population Census of Sudan and how these challenges were resolved or remained intractable.

Having been involved in the Census of Sudan and read through the reports, I come to the conclusion that:

1. The 5th Population Census of Sudan followed the United Nations Recommendations and Principles of Housing and Population Censuses
2. The 5th Population Census of Sudan despite its unique challenges was conducted professionally
3. The Monitoring and Observation Committee added tremendous value in the successful execution of the 5th Population Census of Sudan
4. From the 164 reports consisting of 9 regional, 25 state and 130 county reports I conclude that the 5th Population Census of Sudan, despite its challenges was a success.

[illegible]

Statistician-General South Africa and Chief Adviser to the MOC

**Annex IV to the letter dated 15 July 2009 from the Chargé d'affaires a.i. of the Permanent Mission of the Sudan to the United Nations addressed to the President of the Security Council**

# ASSESSMENT AND EVALUATION COMMISSION

## Factual Report
## on
## the Status of CPA Implementation
## 2007

**Assessment and Evaluation Commission**

## *Foreword*

*The CPA was signed in Nairobi on January 9th, 2005. The Government of National Unity (GONU) and the Government of Southern Sudan (GOSS) were established in July 2005*

*This document represents a collective effort by the Assessment and Evaluation Commission (AEC) to take stock of the implementation of the Comprehensive Peace Agreement (CPA). It is a factual document which will be updated as the implementations proceeds.*

*Significant progress has been achieved by the parties in implementation of CPA since 2005, through, inter alia, the adoption of the Interim National Constitution (INC) and the Interim Constitution of Southern Sudan (INSS) and the establishment of institutions provided for in the Agreement, such as the GONU, the GOSS and the States Governments, as well as the general compliance with the ceasefire.*

*The CPA is a bridge between two parties which have been in conflict for many years. They are presently involved in no less than political nation - building. This is a daunting task under the best of circumstances.*

*A six and a half year transition period is short, but it should be sufficient to establish a fair playing ground between the parties.*

*The CPA enjoys broad international support. However, the responsibility for implementing it rests with the parties. They owe it to the people of the Sudan, on the commitments they solemnly made when signing the CPA in January 2005.*

*The CPA is a win-win proposition for the people of the Sudan and their political leaders. It lays out the way forward to consolidate peace and stability and to transform the Sudan into a democratic state where the basic freedoms and rights embodied in the CPA and the INC will be realized.*

*Three years from now the people of Southern Sudan will decide on their future. Those three years must be used effectively by the parties to make unity attractive. The people of the Sudan must experience first hand that CPA is more than the absence of war. The CPA means development, freedom and respects for the individual citizen whoever and wherever they are.*

*October 2007*

(*Signed*) *Tom* ***Vraalsen***
*Chairman of the*
*Assessment and Evaluation Commission*

# ASSESSMENT AND EVALUATION COMMISSION
## Factual Report on the Status of CPA Implementation, 2007

## Power Sharing

| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **MACHAKOS PROTOCOL** | | | |
| **Plan for 5 Rs ( Repatriation, Resettlement, Reintegration Rehabilitation and Reconstruction)** | In progress (JAM) | CCG / JAM | It is part of UNMIS mandate to "facilitate and coordinate (…) the voluntary return of refugees and internally displaced persons". UNMIS Return, Reintegration and Recovery Unit plays a coordinating and planning role for UN, NGOs and donor return-related activities, and supports Government programs.<br>In October 2006, GNU, GoSS and UN agreed on a joint plan for organized returns, up to December 2007. Parties complain for the lack of clear UN strategies over returnees and would like to have more details on the UN activities on Repatriation in general and from Ethiopia in particular. |
| **Establishment of Assessment and Evaluation Commission (AEC)** | During the Pre-interim Period after the adoption of Interim National Constitution (INC) and establishment of the Institution of the Presidency. | The Presidency | The AEC was established in October 2005 to assess and evaluate the implementation of the CPA with the Parties. It is composed by 13 members and 4 observers, who meet in a plenary setting once a month. The AEC has held 25 Plenary Sessions, and 7 special sessions. Regular meetings of the Working Groups are coordinated by the international members of the AEC (Power Sharing by Italy; Wealth Sharing by USA; Security Arrangements by UK; Three Areas by the Netherlands). The PSWG held 10 meetings. |

# ASSESSMENT AND EVALUATION COMMISSION
## Factual Report on the Status of CPA Implementation, 2007

| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **Improvement of institutions and arrangements created under the Agreement to making the unity of Sudan attractive to the people of Southern Sudan** | After adoption of the INC and establishment of the AEC | The Parties to the CPA and the AEC | The AEC is working. Few other actions have been undertaken by the Parties. |
| **Guarantees to safeguard agreement against Unilateral revocation or abrogation** | Upon signature of the CPA and up to the end of Interim Period | The Parties, IGAD and the International Community | The Constitutional Court was established on December 2006. |
| **POWER SHARING PROTOCOL** | | | |
| **Part I** | | | |
| **Enactment of Political Parties Act** | Upon adoption of the Interim National Constitution (INC) | The National Legislature | The Political Parties Act was approved by the National Assembly in January 2007. |
| **National reconciliation and healing process (NRHP)** | After adoption of the INC | The Presidency | No national program for reconciliation and healing has been launched by the GoNU. |

# ASSESSMENT AND EVALUATION COMMISSION
## Factual Report on the Status of CPA Implementation, 2007

| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **National Population Census (NPC)** | | | |
| **a) Establishment of the population Census Council** | After the establishment of the institution of the Presidency | The Presidency | The National Population Census Council was established on 7th January 2006 by Presidential Decree and meets every three months.<br>A Technical Working Group is functioning and is holding regular meetings in different towns of Sudan. |
| **b) Conduct of the census** | Second year of the Interim Period | Central Bureau of Statistics and the GoSS Centre for Statistics and Evaluation | A Monitoring and Observers Committee was established to monitor the census implementation, in order to give assurances on the quality of the process. They held two meetings in December 2006 and March 2007. It is funded by the Council of States.<br>The pilot project for the census, after being delayed twice, took place on 15-30 April 2007 in all States. Parties disagreed on the final form used during the pilot census and therefore on the outcome. The form was approved by the National Population Census Council and by the Presidency.<br>Parties revised in 2006 the date set by the CPA and fixed the census for February 2008.<br>During the last AEC Special Session on the Census, the SSCCSE pointed out the challenges and causes for delays in conducting the census in Southern Sudan, such as lack of timely funding for the census and for the establishment of an infra-structure for the SSCCSE in the 10 States, the shortage of qualified human resources, security and logistical problems. The Director of SSCCSE advised also to postpone |

# ASSESSMENT AND EVALUATION COMMISSION
## Factual Report on the Status of CPA Implementation, 2007

| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| | | | the census at the beginning of 2008 to take advantage of the dry season.<br>The return of the IDPs and refugees and the security situation are major concerns for Southern Sudan. The census in Darfur is also an issue that must be addressed.<br>Census is important for social and economic issues and for the development of the Country. Moreover, political implications are attached to the census. People agree on the need for a qualitative census even with some delay, due the great importance attached to its result for the future development of the Country. The link with General Elections must be solved by the Parties.<br>The AEC held 2 special sessions on the Census. |
| **General Elections:**<br>**a) Enactment of National Electoral Law**<br>**b) Establishment of the National Electoral Commission** | Within Six month from the start of the Interim Period<br>Within one month after the adoption of the law. | The National Legislature<br>The Presidency | The National Electoral Law has not been approved yet. At the moment the NCRC is drafting the law. On this regard, the NCRC has established a committee, headed by Abel Alier, co-chair of the NCRC, to prepare the draft of the law. Moreover, in order to have a law that could gain the broadest consensus, the NCRC has established two sub-committee, one for the consultations with the political parties that are not members of the NCRC, chaired by Tajelsir Salih |

# ASSESSMENT AND EVALUATION COMMISSION
## Factual Report on the Status of CPA Implementation, 2007

| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| | | | DUP), and one for the consultations at the State level, chaired by Marwa Jaknoon (NCP).<br>The National Electoral Commission has not been established. The Electoral Law should have been enacted six months from the start of the Interim Period and the Commission within one month from the enactment of the Law. |
| **Review of the feasibility of the dates set for census** | For the census six months before the end of the first two years into the Interim Period; | The Parties to the Agreement | Parties revised during 2006 the date set by the CPA and fixed the census for February 2008. |

| **Part II** | | | |
|---|---|---|---|
| **The Council of States** | i) Establishment Within 2 weeks after enactment of the INC<br>ii) Appointment of members of the Council of States within two weeks from enactment of the INC. | The Presidency<br>The Presidency | The Council of States was formed and convened on 31st of August 2005, therefore a little later than it was foreseen in the CPA. The Council of States has two members from each States, appointed by the Presidency in consultation with State institutions. Observers of Abyei have not been appointed because Abyei area is not identified.<br>All members of the Council of State are from NCP and SPLM, according to the CPA. |

# ASSESSMENT AND EVALUATION COMMISSION
## Factual Report on the Status of CPA Implementation, 2007

| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| | iii) Convening of Council of States within two weeks of the enactment of the INC.<br>iv) staffing of Council of States during the Pre-interim Period | The Presidency<br>The Council of States | |
| **Establishment and convening of the National Assembly** | Within two weeks after the adoption of INC<br>Staffing of the National Assembly seven days after enactment of the INC | The Presidency<br>The National Assembly | The National Assembly was formed and reconvened on 31st of August 2005, with a composition that reflects the Power Sharing formula. Some opposition political parties refused to join.<br>The NA has concluded its 4th session and has not reached all established targets for the legislative reform after the CPA and INC. |
| **Determination of the scope of legislative competency of the National Assembly and the Council of States respectively** | In the course of the work of the Parties 14 member Joint Constitutional Task Team charged with preparation of a | The Parties | Coordination among the Ministry of Justice, the Presidency, the NCRC and the National Legislature has improved. |

## ASSESSMENT AND EVALUATION COMMISSION
## Factual Report on the Status of CPA Implementation, 2007

| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| | draft Constitutional text for presentation to the (NCRC | | |
| **Election of Speakers, Deputy Speakers and other officers of the National Legislature** | Upon the convening of the first session in both Chambers | Both chambers | Done according to the CPA |
| **Establishment of the Institution of the Presidency** | Upon adoption and signature of the INC. | The President of the Republic | The Presidency was inaugurated on 9th July 2005 with Omar Hassan El Bashir as President, John Garang De Mabior as First Vice President, Ali Osman Taha as Vice President. After the death of John Garang, Salva Kiir Mayardit becomes First Vice President on 11th August 2005. |
| **Defining the functions of the two Vice Presidents** | Implementation modalities | The Parties to the CPA | Done according to the CPA |
| **Specification of appointments made by the President with the consent of the 1st Vice President** | During the implementation modalities process | The Parties to the process | Done according to the CPA |

# ASSESSMENT AND EVALUATION COMMISSION
## Factual Report on the Status of CPA Implementation, 2007

| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **Establishment of Council of Ministers (prior to elections)** | Within 30 days after the adoption of INC. | The President of the Republic | On 20th September 2005, President Bashir issued 4 decrees establishing the Government of National Unity, in accordance with the Power Sharing formula. |
| **The status of the Ministries of Defense, Guidance and Endowment, and Federal Governance** | N/A | N/A | Done according to the CPA |
| **Matters in respect of which the President shall take decisions with the consent of the First Vice President according to the Protocols and Agreements** | N/A | The President and the First Vice President | Done according to the CPA |
| **Representativeness of the administration of the National Capital** | After establishment of the institution of the Presidency | The Presidency in consultation with the Governor of Khartoum State | The ad hoc Committee for the representative ness of the administration of the National Capital was established on 18th October 2005. The Committee is formed by ten members representing NCP and SPLM. The Committee finished its work and although there were some disagreement, the Committee presented its report to the Presidency, leaving to that institution the final decision on those matters. Khartoum State Government was formed accordingly. |

# ASSESSMENT AND EVALUATION COMMISSION
## Factual Report on the Status of CPA Implementation, 2007

| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **Representation of the people of Sudan in the law enforcement agencies in the National Capital and provision for their adequate training** | During the Pre-Interim Period | The Presidency and the Government of Khartoum State | No major developments were registered on the representation of people of Sudan in the new law enforcement agencies in the NC and provisions for their adequate training, |
| **Appointment of a special commission to ensure that the rights of non-Muslims are protected in the National Capital** | Upon the establishment of the institution of the Presidency | The Presidency | The Chairman and the members of the Commission have been appointed with a Presidential Decree on 15th February 2007 and was officially inaugurated on April 2007. |
| **Establishment of mechanisms of guarantees of the rights of non-Muslims in the National Capital** | After the enactment of the INC | Chief Justice and the National Minister of Justice and any other Institutions charged with the implementation of mechanisms and guarantees | With Decree n. 24 of 2006, the Presidency set up the objectives of the Commission. The Commission presented to the Presidency by laws to operationalize its work and define its legal framework. |
| **Establishment of the National Civil Service Commission (NCSC)**<br>**a) Enactment of the National Civil Service Commission Act** | After adoption of the INC within the Pre-interim Period. | National Legislature | Before the end of its 3rd session, the National Assembly approved the National Civil Service Commission Act (December 2006) and the National Civil Service Act (January 2007).<br>The Chairman and the members of the Civil Service Commission have just been appointed by a Presidential Decree. |

## ASSESSMENT AND EVALUATION COMMISSION

## Factual Report on the Status of CPA Implementation, 2007

| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **b) Establishment of the NCSC** | After the enactment of the NCSC Act | The Presidency | |
| **Mechanism for operationalization of affirmative action** | After establishment of the NCSC | NCSC | Not set yet due to the lack of the NSCS |
| **Enactment of the National Security Act** | After the enactment of the INC | The National Legislature | The two Parties are studying the draft of the new national Security Act. |
| **Establishment of the National Security Council (NSC)** | During the Pre-interim Period and After the enactment of the NS Act | The Presidency | Not implemented yet |
| **Establishment of the National Security Service (NSS)** | During Pre-interim Period after adoption of NS Act | The Presidency | Not implemented yet |
| **Establishment of Security Committees at the GOSS and the States level.** | Upon adoption of the NS Act | The President of the GOSS and the Governors of the States | Not implemented yet |
| **Identification of the Security organs of the two Parties and their assets** | During the Pre-interim Period and before the enactment of the NSS | The Parties to the CPA | Not implemented yet |

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| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **Development and promotion of national languages**<br>**a) Enactment of a founding law**<br>**b) Establishment of a Council for development and promotion of national languages** | After the enactment of the INC<br>After the enacatment of the law | GONU<br>The President | The Council has not been formed.<br>The Law was approved by the NCRC in January 2007 and enacted by the NA afterwards. |
| **Human Rights Commission**<br>**a) Enactment of the HRC Act**<br>**b) Establishment of the HRC** | After the enactment of the INC<br>After the enactment of the Act | The National Legislature<br>The Presidency | The HRC has not been established.<br>The HRC Act has been approved by the NCRC in January 2007 and passed to the Council of Ministers that made some observations to the act. A Joint Committee NCP/SPLM has been established with members of NA and NCRC to look into the observations and to speed up approval. |
| **The National Judicial Service Commission**<br>**a) Enactment of the NJSC Act**<br>**b) Establishment of the National Judicial** | After the enactment of INC<br>After the adoption of the INC within the Pre-Interim | The National Legislature<br>The Presidency | The National Judicial Service Commission was enacted on 29th September 2005 and the Commission was established on 6th December 2005.<br>The NJSC is operational and received support from UNDP and the World Bank that together with the Ministry of Finance launched a three years programme (18 million dollars) to provide training and technical support to the NJSC and to the National |

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| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **Service Commission (NJSC)** | Period and enactment of NJSC Act | | Judiciary. |
| **Southern Sudan representation in Constitutional Court, National Supreme Court and other national courts in the Capital** | For the Constitutional Court as mentioned above in the establishment of the Constitutional Court the rest throughout the Interim Period of the Agreement. | The Presidency according to recommendation by NJSC | The representation of Southern Sudan in the Constitutional Court is assured. Parties have to work in order to assure the Southern Sudan representation in the National Supreme Court and the other Courts in the capital. |
| **Submission and approval of the CPA to the National Assembly (NA) and National Liberation Council (NLC)** | Within two weeks from the date of signature of the CPA | IGAD, NA and NLC | Approved |
| **Establishment and composition of the National Constitutional Review Commission (NCRC)** | Within two weeks from the date of signature. | The parties to the CPA | The NCRC was first established in April 2005 in order to draft INC, after significant delay. It was formed in its actual capacity in JUNE 2006. It has worked on establishing Acts of various commissions (i.e. Human Rights Commission, Council of Languages), which have not been established yet, and on the legislative review process (i.e. Political Parties Act). NCRC is now working on the draft for |

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| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| | | | the establishment of the National Land Commission and the Electoral Law Commission |
| **Preparation of the Constitutional Text by NCRC** | Within six weeks from the date of receipt of the text of the CPA | NCRC | The NCRC drafted the Interim National Constitution. To have a more inclusive process, the NCRC convened in a broader composition, i.e. 180 members instead of 60. |
| **Adoption of the Constitutional Text as INC** | Within two weeks from the date of receipt from NCRC | NA and SPLM NLC | The INC was adopted on 9th July 2005. |
| **Preparation of other legal instruments as stipulated in 2.10 of PSP** | After the adoption of the INC within the Pre-interim Period. | NCRC | The Commission is working establishing acts and laws, like for example, the Human Rights Commission, Civil Service Commission, Council of Languages. |
| **Organization of an inclusive Constitutional Review Process (CRP)** | During the Interim Period | NCRC | Not yet started |
| **PART III** | | | |
| **Determination of North/ South border of 1/1/1956** | Pre-interim period after the adoption of the INC | The Presidency | The ad hoc North/South Technical Border Committee was established on 8th September 2005, and its members were appointed on November 2005. The first significant meeting of the Committee was held in May 2006.<br>The Committee has carried out a reconnaissance survey on the ground during 2007 first dry season, as |

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| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| | | | a preparatory work for the demarcation. It could not be completed in South Darfur/Western Bahr al Gazal border and in Blue Nile/Upper Nile border due to insecurity.<br>The Committee has traveled to UK and Egypt in July 2007 to consult maps.<br>The Ministry of Finance has approved the budget and money is released on demand.<br>According to the last plan of the Committee, the demarcation of the border is due to happen in February 2008.<br>The Committee will issue a recommendation for the Presidency. |
| **Establishment of Abyei Area Council** | Within one week after the appointment of the Chief Administrator | The Presidency | Not yet implemented |
| **Mechanism for selection of 20% of other political forces in the Northern and Southern States** | Before the establishment of the state Assemblies. | NCP in the North and SPLM in the Southern Sudan | |
| **a) Drafting and adoption of the State Constitutions** | Within three weeks from the establishment of | State Legislature | The State Constitutions of the Northern States and Southern States have been adopted. |

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| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **b) Determination of the Compatibility of the State Constitutions with INC, and in case of states in Southern Sudan according to INC and SSC** | the state legislature in Northern States and in case of states of Southern Sudan the adoption shall be within 4 weeks after signing of SSC.<br>Within two weeks from the receipt of the State constitution | National Ministry of Justice ( MoJ) | Nevertheless, whilst all the Northern State Constitutions received the compatibility certificate, there is an outstanding issue with regard to the Southern Sudan State Constitutions between the National Minister of Justice and the Ministry of Legal Affairs of the GoSS. The Ministry of Justice refused to issue the compatibility certificate for the SS State Constitutions on the basis of a legal incongruity with the INC.<br>A model of State Constitution had been developed and agreed on both by the Ministry of Justice and the Ministry of Legal Affairs in the South. |
| **Establishment of State Council of Ministers** | Within one week after signing the Constitution of the State | State Governors | State Governors were appointed. Governors appointed the State Legislative Assemblies, State Constitutions were drafted and adopted and accordingly State Councils of Ministers were formed. |

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## Power Sharing

This report will follow the model of the implementation modalities of the Power Sharing Protocol of the CPA, analysing the achievements, the delays. The aim of the report is to give a picture of the actual situation and create a useful reference for further more effective actions, also for the AEC.

### Part I. General Principles

*1.1 In accordance with the Machakos Protocol agreed to at Machakos, Kenya, on 20th July, 2002, the following Protocol on Power Sharing forms an integral part of the overall Peace Agreement.*

*1.2 The Parties reaffirm their acceptance of the Agreed Principles (of Governance) as stipulated in the Machakos Protocol of 20th July, 2002. The modalities of implementation of these principles are the object of the present Protocol on Power Sharing*

*1.3 In accordance with the Machakos Protocol, the structures of governments in the Sudan shall be as follows during the Interim Period:*

*1.3.1 The National level of Government which shall exercise authority so as to protect and promote the national sovereignty of Sudan and the welfare of its people;*

*1.3.2 The Southern Sudan level of Government which shall exercise authority in respect of the people and States in the South;*

*1.3.3 The States throughout Sudan which shall exercise authority at the state level and render public services through the level of government close to the people; and*

*1.3.4 The level of local government throughout the Sudan.*

*1.4 The Parties agree that the following principles shall guide the distribution of powers and the establishment of structures:*

*1.4.1 Recognition of both the sovereignty of the nation as vested in its people as well as the need for autonomy of the Government of Southern Sudan and States throughout the Sudan;*

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*1.4.2 Affirmation of the need for both national as well as state and Southern Sudan norms and standards so as to reflect the unity of the country and the diversity of the Sudanese people;*

*1.4.3 Acknowledgement of the need to promote the welfare of the people and protect their human rights and fundamental freedoms;*

*1.4.4 Recognition of the need for the involvement and participation of the people of South Sudan at all levels of government and National institutions as an expression of the national unity of the country;*

*1.4.5 Pursuit of good governance, accountability, transparency, democracy, and the rule of law at all levels of government to achieve lasting peace;*

*1.4.6 Recognizing the need to legitimize the arrangements agreed to herein, fair electoral laws shall be adopted, including the free establishment of political parties. Elections at all levels of government shall be held by universal adult suffrage.*

***1.5 Principles of Administration and Inter-Governmental Linkages:***

*1.5.1 In the administration of the Government of National Unity, the following provisions shall be respected:*

- *1.5.1.1 There shall be a decentralized system of government with significant devolution of powers, having regard to the National, Southern Sudan, State, and Local levels of government;*
- *1.5.1.2 The Interim National Constitution, being the legal and constitutional framework text adopted as contemplated in paragraph 2.12.6 herein, shall be the Supreme Law of the land and the Southern Sudan Constitution, state constitutions, and the laws of all levels of government must comply with it;*
- *1.5.1.3 The linkage between the National Government and the states in the Southern Sudan shall be through the Government of Southern Sudan, subject to paragraph 1.5.1.4 below, and as provided for in the Interim National Constitution and the Southern Sudan Constitution;*
- *1.5.1.4 In their relationships with each other or with other government organs, all levels of government and particularly National, Southern Sudan, and State Governments shall:*
    - *(a) Respect each others' autonomy;*
    - *(b) Collaborate rather than compete, in the task of governing and assist each other in fulfilling each others' constitutional obligations;*

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*(c) Perform their functions and exercise their powers so as:*

*(i) Not to encroach on another level's powers or functions;*

*(ii) Not to assume another level's powers or functions conferred upon it by the Constitution;*

*(iii) To promote co-operation between them;*

*(iv) To promote open communication between government and levels of government;*

*(v) To strive to render assistance and support to other levels of government;*

*(vi) To advance the good co-ordination of governmental functions;*

*(vii) To adhere to procedures of inter-governmental interaction as agreed upon;*

*(viii) To promote amicable settlement of disputes before attempting litigation;*

*(ix) To respect the status and institutions of other levels of government.*

*(d) Allow the harmonious and collaborative interaction of the different levels of government within the context of national unity and for the achievement of a better quality of life for all.*

### *1.6 Human Rights and Fundamental Freedoms:*

*1.6.1 The Republic of the Sudan, including all levels of Government throughout the country, shall comply fully with its obligations under the international human rights treaties to which it is or becomes a party. These include the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, the Slavery Convention of 1926, as amended, and the related Supplementary Convention, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the International Convention Against Apartheid in Sports, the Convention Relating to the Status of Refugees and the Related Protocol, and the African Charter on Human and People's Rights. The Republic of the Sudan should endeavor to ratify other human rights treaties which it has signed.*

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*16.2. The rights and freedoms to be enjoyed under Sudanese law, in accordance with the provisions of the treaties referred to above, include in particular the following:*

*1.6.2.1 Life*
*Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his/her life;*
*1.6.2.2 Personal Liberty*
*Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his/her liberty except on such grounds and in accordance with such procedures as are established by law.*
*1.6.2.3 Slavery*
*No one shall be held in slavery; slavery and the slave trade in all their forms shall be prohibited. No one shall be held in servitude or be required to perform forced or compulsory labor;*
*1.6.2.4 Torture*
*No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment;*
*1.6.2.5 Fair Trial*
*(a) Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his/her arrest and shall be promptly informed of any charges against him/her;*
*(b) In the determination of any criminal charges against him/her, or of his/her rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law;*
*(c) Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law;*
*(d) No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed;*
*(e) In the determination of any criminal charge against him/her, everyone shall be entitled, in full equality, to be tried without undue delay, to be tried in his/her presence and to defend himself/herself in person or through legal assistance of his/her own choosing and to have legal assistance assigned to him/her in any case where the interests of justice so require.*

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*1.6.2.6 Privacy*

*No one shall be subjected to arbitrary or unlawful interference with his/her privacy, family, home or correspondence;*

*1.6.2.7 Freedom of Thought, Conscience and Religion*

*Everyone shall have the right to freedom of thought, conscience and religion;*

*1.6.2.8 Freedom of Expression*

*Everyone shall have the right to freedom of expression;*

*1.6.2.9 Freedom of Assembly and Association*

*The right of peaceful assembly shall be recognized. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his/her interests;*

*1.6.2.10 Family and Marriage*

*(a) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State;*

*(b) The right of men and women of marriageable age to marry and to found a family shall be recognized, according to their respective family laws.*

*1.6.2.11 Right to Vote*

*Every citizen shall have the right and the opportunity, without distinctions and unreasonable restrictions, to vote and to be elected at genuine periodic elections, which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;*

*1.6.2.12 Equality Before the Law*

*All persons are equal before the law and are entitled without any discrimination to the equal protection of the law;*

*1.6.2.13 Freedom from Discrimination*

*The law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;*

*1.6.2.14 Freedom of Movement*

*Everyone has the right to liberty of movement and freedom to choose his/her residence;*

*1.6.2.15 The Rights of Children*

*Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his/her status as a minor.;*

*1.6.2.16 Equal Rights of Men and Women*

*(a) The equal right of men and women to the enjoyment of all civil and political rights set forth in the International Covenant on Civil and Political Rights and all*

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*economic, social, and cultural rights set forth in the International Covenant on Economic, Social and Cultural Rights shall be ensured;*
*(b) The human rights and fundamental freedoms embodied in the International Covenant on Civil and Political Rights (ICCPR) shall also be reflected in the Interim National Constitution. No derogation from these rights and freedoms shall be made under the Constitution or under the ICCPR except in accordance with the provisions thereof and only with the approval of the Presidency and the National Legislature, as required by Section 2.3.14 herein;*
*(c) These human rights and fundamental freedoms shall be monitored by the Human Rights Commission specified in paragraph 2.10.1.2 herein.*

***1.7 Reconciliation:***
*The Parties agree to initiate a comprehensive process of national reconciliation and healing throughout the country as part of the peace building process. Its mechanisms and forms shall be worked out by the Government of National Unity.*

***1.8 Population Census, Elections and Representation:***
*1.8.1 Population census throughout the Sudan shall be conducted and completed by the end of the second year of the Interim Period;*
*1.8.2 The preparation, planning and organization for the census shall commence as soon as the Peace Agreement is signed;*
*1.8.3 General Elections at all levels of government shall be completed by the end of the third year of the Interim Period*[1]*;*
*1.8.4 Six months before the end of the periods referred to in Sub-Paragraphs 1.8.1 and 1.8.3 the Parties shall meet and review the feasibility of the dates set out in the above-mentioned sub-Paragraphs.*
*1.8.5 Certain considerations, while not conditional upon their completion, should be taken into account with respect to the timing of the elections (including, inter alia, resettlement, rehabilitation, reconstruction, repatriation, building of structures and institutions, and consolidation of the Peace Agreement);*
*1.8.6 Whoever runs in any election must respect, abide by, and enforce the Peace Agreement;*
*1.8.7 International observers shall participate in the observation of elections;*
*1.8.8 Representation of the north and the south at the National level shall be based on population ratio;*

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[1] As agreed by the two Parties in para 9(d) of the Implementation Modalities to the PSP and Art. 216 of the INC, general Elections shall be held no later than the end of the fourth year of the Interim Period.

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*1.8.9 The percentages agreed herein are temporary and shall either be confirmed or adjusted on the basis of the census results.*

**PSP 1.7 National reconciliation and healing process (NRHP)**

No national program for reconciliation and healing has been launched by GoNU.

**PSP 1.8.1,2 National Population Census**

The National Population Census Council was established in 2006 and it is meeting every 3 months. The Central Bureau of Statistics (CBS) and the Southern Sudan Centre for Census, Statistics and Evaluation (SSCCSE) in Juba are the technical implementing bodies for the census. They work in coordination with UNFPA and 4 subcommittees: financial, Technical Working Group, advocacy and Monitoring and Observers Committee (MOC).

The Technical Working Group is functioning and held regular meetings in different towns of Sudan. The Advocacy Committee wrote a plan of actions and is carrying out different activities, like TV programmes, press conference and advertisements. The Advocacy Committee fully participated in the pilot project. MOC has clear mandate and receives funds from the National Population Census Council.

GONU and MDTF are funding the census. There is a major concern over the slow disbursement of funds. They have started to release money for 2007.

The pilot census took place from 15-30th April in all States. Parties have revised during 2006 the date set by the CPA and fixed the census for 2nd -16th February 2008. During the last AEC Special Session on the Census, the SSCCSE pointed out the challenges and causes for delays in conducting the census in Southern Sudan, such as lack of timely funding for the census and for the establishment of an infra-structure for the SSCCSE in the 10 States, the shortage of qualified human resources, security and logistical problems. The Director of SSCCSE advised also to postpone the census at the beginning of 2008 to take advantage of the dry season. The return of the IDPs and refugees and the security situation are major concerns for Southern Sudan. The census in Darfur is also an issue that must be addressed.

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Census is important for social and economic issues and for the development of the Country. Moreover, political implications are attached to the census. People agree on the need for a qualitative census even with some delay, due the great

importance attached to its result for the future development of the Country. The link with General Elections must be solved by the Parties.
The AEC held 2 Special Sessions on the Census.

**PSP 1.8.3,4; 2.3.7 General Elections**

The Political Parties Act was enacted in January 2007.

The drafting exercise of the Electoral Law has started in 2007 within the NCRC. Political Parties and civil society groups are preparing their drafts at times with technical international assistance. NCRC will produce a comprehensive draft for the NA. Parties believe the law will not be enacted before the end of 2007. The National Electoral Commission will be formed afterward.

The Electoral Law should have been enacted six months from the start of the Interim Period and the Commission within one month from the enactment of the Law.

**Part II. Institutions at the National Level**

**PSP 2.2 The National Legislature**
The NA was set and is working but some of the opposition parties refused to join.

Since the signature of the CPA, the National Assembly has held four sessions and has approved different laws. Among them we recall the Civil Service Commission Act, the National Civil Service Act, and the Political Parties Act.

The use of Presidential Decree for the enactment of laws has stopped.

**PSP 2.3 The National Executive**
The Presidency and the Executive were established in 2005. The Presidency maintains the political and financial control over the implementation of the CPA. Cooperation between the Executive and the Legislative is good.

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Some outstanding issues concerning the implementation of the CPA are waiting for a Presidential decision.

**PSP 2.4 The National Capital**
After extensive consultations the Parties decided Khartoum is the National Capital (NC), where rights of non-Muslim are protected and not adversely affected by the application of Sharia.

The ad hoc Committee for the representativeness of the administration of the NC was established last October 2005. The Committee finished its work and although there were some disagreement the Committee presented its report to the Presidency, leaving to that institution the final decision on those matters. Khartoum State Government has been formed accordingly.

The Commission for the protection of the rights of non-Muslim was established in 2007 and was officially inaugurated on April 2007.

No major developments were registered on the representation of people of Sudan in the law enforcement agencies in the NC and the provisions for their adequate training.

**PSP 2.6 The Civil Service**
The National Civil Service Act was enacted on January 2007, after significant delay. The National Civil Service Commission Act, after the revision of the NCRC, was also approved by the NA. The Chairman and members of the Civil Service Commission have just been appointed by a Presidential Decree.

**PSP 2.7 The National Security**
None of the CPA provisions has been implemented. The two Parties are studying the draft of the new National Security Act.

**PSP 2.8 Language**
The NCRC has revised the founding law for the development and promotion of national languages and, after the enactment at the NA, the Council for development and promotion of national languages will be established.

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**PSP 2.10 Commissions**
The NCRC was first established in April 2005 in order to draft the INC, after significant delay. It was formed in its actual capacity in June 2006. It has worked on establishing Acts of various Commissions (i.e. Human Rights Commissions, Council of languages), which have not been established yet, and on the legislative review process (i.e. Political Parties Act). NCRC is now working on the draft for the establishment of the National Land Commission and Electoral Law Commission.

The National Petroleum Commission dispute has been settled between the two Parties. On 19th of April 2007, the NPC had its first meeting and the rules of procedures were passed.

The HRC has not been established. The HRC Act has been approved by the NCRC in January 2007 and passed to the Council of Ministers that made some observations. A Joint Committee NCP/SPLM has been established with members of NA and NCRC to look into the observations and to speed up approval.

The National Judicial Service Commission Act was enacted.

FFAMC was formed by presidential decree and its working.

**PSP 2.11 The National Judiciary**
The Constitutional Court Act was established last December 2005.
The National Judicial Service Commission was also established.

**Part III. Government of Southern Sudan (GoSS)**

GoSS was established and is operational. Cooperation between the Executive and the Legislative is good.

**PSP 3.1 Ad hoc North/South Border Technical Committee**
The ad hoc North/South Technical Border Committee was established on 8th September 2005, and its members were appointed on November 2005. The first significant meeting of the Committee was held in May 2006.

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The Committee has carried out a reconnaissance survey on the ground during 2007 first dry season, as a preparatory work for the demarcation. It could not be completed in South Darfur/Western Bahr al Gazal border and in Blue Nile/Upper Nile border due to insecurity. The Committee has travelled to UK and Egypt in July 2007 to consult maps.

The Ministry of Finance has approved the budget and money is released on demand. According to the last plan of the Committee, the demarcation of the border is due to happen in February 2008. The Committee will issue a recommendation for the Presidency.

**PSP 3.5-6 Southern Sudan Legislature and Executive**

The SSLA is operational and it is at its third session.

During the first session, 16 subcommittees were formed. The DDR Commission was established and on May 2006 the Chairman and the Deputy Chairman of the DDR Commission were appointed.

On 27th June 2006, when the SSLA was on recess, the following 14 Southern Sudan Commissions were established through Presidential decree, despite ISSC provision. Nevertheless bills for establishment of these commissions will soon be tabled for legislation by SSLA:

1.SS Relief and Rehabilitation Commission;
2.SS De-Mining Authority;
3.SS Peace Commission;
4.SS Anti-corruption Commission;
5.SS Human Rights Commission;
6.Public Grievance Chamber;
7.Reconstruction and Development Fund;
8.Civil Service Commission;
9.Land Commission;
10. Fiscal and Financial Allocation and Monitoring Commission;
11. Centre for Census Statistics and Evaluation;
12. HIV/AIDS Commission;
13. Audit Chamber;
14. Employees Justice Chamber.

SSLA has seriously embarked on addressing issues of corruption within the executive.

**PSP 3.7 The Judiciary of Southern Sudan**

All Judges have been appointed in the Supreme Court of Southern Sudan, the Appeal Court and the County Courts; the system is starting to be operational. However there is a lack of qualified supporting staff. The main challenges of the SS Judiciary are enlisted below:

1.Establishment of the Judiciary at all levels
2.Set standard for the State Judiciary
3.Develop policies of training and define models
4.Establish administrative man power at the High Courts level
5.Define position of customary structure in State Judiciary
6.Shortage of trained judges and support staff

**Part IV. Institutions at the State Level**

All State Executive and Legislative have been established in the last 2 years.

However the issue of compatibility for Southern Sudan States Constitutions is still open. The Ministry of Justice in fact refused to issue the compatibility certificate to the Constitutions on the basis of a legal incongruity with the INC. A model of State Constitution has been developed and agreed on both by the Ministry of Justice and the Ministry of Legal Affairs in the South.

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### Minutes from the AEC Plenary Drafting Session Discussion of the Power Sharing Working Group Draft Report – Outstanding Issues
### October 3rd, 2007

The Coordinator of the Power Sharing Working Group presented the latest draft report on "the status of the CPA implementation". That draft was the result of two drafting sessions, one focused on the matrix and the last one focused on the narrative report. During the last drafting session the Parties agreed on inserting the general principles of the Power Sharing Protocol. The draft is a factual document.

At the Special Drafting Session, the Coordinator of the Power Sharing Working Group showed the two issues which were still pending:

Issue 1:
**1.7 National Reconciliation and Healing Process.**

The Coordinator of the Power Sharing Working Group proposed to come back at the original formulation, i.e. "No national program for reconciliation and healing has been launched by GoNU", instead of inserting the activities that the Parties carried out towards the OAGs, that is an issue related to the SA report.

The Parties accepted the proposal made by the Coordinator of the Power Sharing Working Group.

Issue 2:
**2.4 National Capital and in particular the Commission for the Protection of the Right of Non-Muslim.**

During the last drafting session, to overcome the disagreement between the Parties, the Coordinator of the Power Sharing proposed to put in the report what is written in the Presidential Decree.

During the Special Drafting Session the SPLM insisted to put a sentence to highlight the presence in the Commission of a majority of Muslim, whilst the NCP pointed out that the role of the Commission is to protect the rights of the non-Muslim and not the non-Muslim tout court. At last the SPLM proposed to simply stated that the Commission was established and inaugurated, without making any reference to its composition. The NCP approved that proposition.

Therefore, the Coordinator of the Power Sharing declared finalised the report on "the status of the implementation of the CPA" as far as the Power Sharing Protocol is concern.

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## Wealth Sharing

| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **WEALTH SHARING PROTOCOL** | | | |
| **A. Land Ownership** | | | |
| **Institute a process to develop and amend the relevant laws to incorporate customary laws and practices** | During the Pre-interim Period after establishment of land commissions at all levels. | Land Commissions<br>Executive Bodies at all levels<br>Legislature at all levels | Legislation for the land commission is being prepared by the NCRC. Consensus building process is underway. Legislative procedures require it to be submitted to the Council of Ministers, then to the National Assembly. |
| **Establish National Land Commission** | After approval of Interim National Constitution | The National Government and<br>The Presidency | As above. |
| **Establish Southern Sudan Land Commission** | After establishment of GOSS | The President of GOSS | Commission personnel have been appointed, although the Land Act has not been enacted. |

# ASSESSMENT AND EVALUATION COMMISSION
## Factual Report
## on the Status of CPA Implementation, 2007

| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **B. Oil Resources** | | | |
| **Consultation and participation of communities in the management of natural resources** | Pre-Interim Period | GOS<br>GOSS<br>States<br>NPC | Some consultations have taken place. However, a systematic community consultation program is yet to be developed. |
| **Establish National Petroleum Commission (NPC)** | Two weeks after the adoption of the Interim National Constitution and consequent formation of GONU and GOSS | The Presidency | The NPC has been established. Internal regulations of the NPC were adopted April 19, 2007. The Joint Technical Committee on Oil Revenue has been formed and is functioning. The Secretariat is partially functioning, but is awaiting GOSS nominees. |
| **C. Existing Oil Contracts** | | | |
| **SPLM appoint a technical team, to have access to existing oil contracts** | D Day + 30 Days | SPLM<br>Ministry of Energy and Mining | Completed. |
| **Assess contracts with social and environmental problems** | During Pre-interim period and after the recommendation of the Technical Team as provided | Joint Technical committee (GOSS and National Government) to be appointed by National Petroleum Commission (NPC) | Assessment process is underway. |

# ASSESSMENT AND EVALUATION COMMISSION
## Factual Report
## on the Status of CPA Implementation, 2007

| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| | in sub-section 4.1 of WSA | | |
| **Persons whose rights have been violated by oil contracts should be able to seek remedy.** | Upon signing the CPA | Affected persons | The process (whereby affected persons can seek redress) is ongoing. |
| **D. Sharing of Oil Revenue** | | | |
| **Define "net revenue from oil"** | During Implementation Modalities | The GOS and SPLM Delegation to the implementation Modalities on WSA | A formula for sharing of oil revenues has been established, and revenues are being divided according to the formula. |
| **Establish a system to monitor daily production of oil in all Sudan** | Upon signing of CPA and within 60 Days | GOS<br>SPLM | This falls under the responsibility of the Joint Technical Committee. |
| **Reveal to the SPLM production sharing formula between GOS and oil concessions** | Upon signing of CPA and within 60 Days | GOS | Completed. |
| **a) Agree on a mechanism to monitor Oil Revenue Stabilization Account (ORSA)** | Upon signing of CPA and within 60 Days | Joint Technical Committee | Completed. |

# ASSESSMENT AND EVALUATION COMMISSION
## Factual Report
## on the Status of CPA Implementation, 2007

| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **b) Agree on the benchmark price for 2005** | Upon signing of CPA and within the IMF quarterly review | Joint Technical Team from GOS and SPLM | Completed. |
| **c) Agree on the annual benchmark price** | Annually within the budget process | NG<br>GOSS<br>CBOS | Continuing process. |
| **Establish a system to calculate and monitor net oil revenue** | Upon signing of CPA and within 30 Days | GOS<br>SPLM | A system of calculation of net oil revenue is in place. |
| **Transfer of (2%) of producing State share of net oil revenue** | D Day | National Ministry of Finance for Oil Producing States in the North<br>Ministry of Finance of GOSS for Southern Sudan Oil Producing States | This is being done on a continuing basis. Entitlement to oil revenue for Bahr el Ghazal, Abyei, Dinka Ngok, and Misseriya has not yet been established because Abyei Area borders have not been agreed upon. |
| **Transfer of the GOSS share of 50% of net oil revenue** | D Day | Oil Revenue Allocation Committee composed of representatives of: MOF (NG, SPLM/GOSS), NPC, CBOS, BOSS and relevant States. | This is being done on a continuing basis. Entitlement to oil revenues from Abyei has not yet been established because Abyei Area borders have not been agreed upon. |

# ASSESSMENT AND EVALUATION COMMISSION
## Factual Report
## on the Status of CPA Implementation, 2007

| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **Establish Future Generation Fund** | Upon reaching a ceiling of 2 million barrels a day production | Joint Technical Team (GOS and GOSS) | Oil production has not yet reached 2 million barrels a day. |
| **E. Sharing of Non-oil Revenue** | | | |
| **Collection of non-oil revenue by GOSS and states** | After establishment of GOSS and governments of States | Ministry of Finance of GOSS<br>Ministry of Finance of States | New taxation legislation under preparation by GOSS. Information on state revenues is lacking. |
| **F. Equalization & Allocation of Nationally collected Revenues** | | | |
| **Establishment of National Revenue Fund (NRF)** | D Day +1 | National Ministry of Finance | Completed. |
| **Agree on mechanisms to transfer to GOSS 50% of national non-oil revenues collected in Southern Sudan** | After establishment of GOSS | National Ministry of Finance<br>Fiscal and Financial Allocation and Monitoring Commission (FFAMC) | The two parties agree that the schedules of powers enumerated in the CPA are to be respected. Difficulties have been experienced in collecting revenues. However, some National non-oil revenues are now being collected. The two parties are working to establish the mechanisms necessary for full collection of revenues due by the relevant authorities. |

# ASSESSMENT AND EVALUATION COMMISSION
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## on the Status of CPA Implementation, 2007

| ***Activity*** | ***Timing*** | ***Executing Body*** | ***Assessment & Evaluation*** |
|---|---|---|---|
| **Agree on an approach to appeal for donor funds for the reconstruction of South Sudan.** | Immediately before the signing of CPA | Joint Assessment Mission (JAM) Core Coordinating Group (CCG) | Completed – the Sudan Donor Consortium serves this role. |
| **G. Fiscal and Financial Allocation and Monitoring Commission (FFAMC)** | | | |
| **Establish FFAMC** | Pre-interim Period after Constitution Review Commission (CRC) report approved as per sub-section 2.10.1.6 and 2.12.9 of Power Sharing Protocol | The National Government, GOSS and States<br>Presidency to appoint the Chairperson | Established and in operation. |
| **Establish formulae for allocating resources to war affected areas** | Pre-interim period after establishing FFAMC | FFAMC | Formula for distribution of revenues to all states has been devised. |

# ASSESSMENT AND EVALUATION COMMISSION
## Factual Report
## on the Status of CPA Implementation, 2007

| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **H. Division of Government Assets** | | | |
| **Establish a joint technical committee to assess and allocate assets between various levels of government** | After establishment of GONU and GOSS and when disputes arise | Joint Technical Committees for each level of government | Several committees formed, work still in progress. |
| **I. Accounting Standards** | | | |
| **Establish National and Southern Sudan Audit Chambers** | Immediately after establishment of GONU and GOSS | The Presidency<br>National Assembly<br>GOSS | Chamber established,, although legislation is not yet enacted. |
| **K. Financing the transition** | | | |
| **National government assists the SPLM/A in the establishment of the new transitional governments at GOSS and State levels** | After signing of the CPA | National Government<br>Joint National Transition Team (JNTT) | Completed. |
| **Establish a Joint National Transition Team (JNTT)** | Upon signature of CPA | GOS (President of the Sudan)<br>SPLM Chairman | Established; initial functions have been modified. |

# ASSESSMENT AND EVALUATION COMMISSION
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## on the Status of CPA Implementation, 2007

| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **L. Banking & Currency** | | | |
| **Enact/modify legislations to set up a dual banking system** | Immediately upon signing CPA and within 90 Days | The National Legislature | Legislation has been enacted establishing a dual banking system. |
| **Appoint Board of Directors (BOD) of Central Bank of Sudan (CBOS)** | Immediately within one week after ratification of CBOS Act | The Presidency | Completed |
| **Restructure CBOS** | Within 30 days after appointment of BOD | CBOS BOD | Completed. Bank of Southern Sudan set up |
| **Establish Bank of South Sudan (BOSS)** | Within 30 days after appointment of BOD | CBOS BOD | BOSS established and in operation |
| **a) Establish a joint committee to design national currency** | Immediately upon signing of CPA. | Joint Technical Committee from (GOS and SPLM) | Completed |
| **b) Assess circulating currencies in South Sudan** | Within 30 days after signing the CPA. | Joint Technical Committee (GOS and SPLM ) | Completed |

# ASSESSMENT AND EVALUATION COMMISSION
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## on the Status of CPA Implementation, 2007

| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **c) Issuing new currency** | After designing and assessing currencies circulating in South Sudan. | CBOS | New currency issued January 9, 2007. Will be phased in over a period ending August 31, 2007. |
| **M. Borrowing** | | | |
| **Enacting borrowing standards and requirements by CBOS** | After amendment of CBOS Act to comply with the CAP and after establishment of GOSS and States. | CBOS BOD | Done. Embodied in amended CBOS Act. |
| **N. Reconstruction & Development Funds** | | | |
| **Establish South Sudan Reconstruction and Development Fund (SSRDF)** | After establishment of GOSS | SPLM Economic Commission/GOSS | Established, but not operational. |
| **Establish monitoring and evaluation system for accountability and transparency** | Pre-interim Period | GOSS<br>Project Implementation Authority | Completed. (Anti-Corruption Committee, Employee Justice Chamber and Public Grievances Board established.) |
| **Establish an oversight committee for SSRDF** | Pre-interim Period and after the establishment of SSRDF | GOSS | Established, but not yet fully operational. |

# ASSESSMENT AND EVALUATION COMMISSION
## Factual Report
## on the Status of CPA Implementation, 2007

| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **Establish National Reconstruction and Development Fund (NRDF)** | Pre-interim Period | Ministry of Finance<br>JNTT | Established. |
| **Establishment of two multi-donor trust funds (MDTFs) – one for Southern Sudan and other national** | Pre-interim Period before the donors conference | National MDTF (National Government and World Bank)<br>South Sudan MDTF (SPLM/ GOSS and World Bank) | Both MDTFs established and in operation. |
| **Set criteria for eligible financing from MDTFs** | Pre-interim Period before the donors conference | To be determined by MDTF systems. | Completed; done by the World Bank |
| **Establishment of special accounts in a commercial bank in Southern Sudan for GOSS** | Pre-interim Period | Ministry of Finance of GOSS | GOSS has established bank accounts in Khartoum. Nairobi and elsewhere. |

# ASSESSMENT AND EVALUATION COMMISSION
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### Minutes from the AEC Plenary Drafting Session Discussion of the Wealth Sharing Working Group
### Draft Report – Outstanding Issues
### October 3rd, 2007

Meeting in a plenary session to discuss remaining difficulties in agreeing the reports by each of the four working groups, the AEC discussed the following four points concerning the matrix being drafted by the Wealth Sharing Working Group (WSWG). The AEC Chairman stressed to the participants the goal of finalizing the report, which will be forwarded to the Presidency, by adhering to its factual nature.

On each topic, discussion began with a representative of the Coordinator attempting to summarize the position of each of the two sides.

Issue 1:
**B. Oil Resources – 1st point: "Consultation and participation of communities in the management of natural resources."**

On this point, discussion centered on whether, as the SPLM said, consultation and participation should include all oil contracts in the South (regardless of whether they had been signed before or after signing of the CPA), or, as the NCP held, the relevant portions of the CPA and Wealth Sharing Protocol concerned only contracts signed after the CPA.

The two parties agreed to the wording: *Some consultations have taken place. However, a systematic community consultation program is yet to be developed."*

Issue 2:
**D. Sharing of Oil Revenue – 1st point: "Define "net revenue from oil."**

Discussion here regarded the proper forum for discussing the SPLM's concerns about the level of management and transport fees being deducted from oil revenues. The NCP representative stated they have no objection to discussing these issues, but that such concerns should be raised at the JTC and/or at the upcoming mid-term evaluation. The SPLM replied that their concern is to make certain that this topic will be discussed in the future, and that wording in the WSWG's report not preclude such a discussion. The NCP representatives expressed their willingness to discuss this issue in the future and agreed that this be noted in the minutes of the drafting session. The Chairman urged the SPLM to accept this solution, and the SPLM representatives agreed. Accordingly, the agreed language in the matrix is:

*"A formula for sharing of oil revenues has been established, and revenues are being divided according to the formula."*

Issue 3:

**F. Equalization & Allocation of Nationally collected Revenues – 2nd point: "Agree on mechanisms to transfer to GOSS 50% of national non-oil revenues collected in Southern Sudan."**

Discussion concerned who (GOSS or representatives of the National Government) should be collecting national non-oil revenues in Southern Sudan, both taxes and customs duties. Both sides agree that some (but not all) duties are being collected. In the end, the two parties agreed to this language for the matrix:

*"The two parties agree that the schedules of powers enumerated in the CPA are to be respected. Difficulties have been experienced in collecting revenues. However, some National non-oil revenues are now being collected. The two parties are working to establish the mechanisms necessary for full collection of revenues due by the relevant authorities."*

Issue 4:

**G. Fiscal and Financial Allocation and Monitoring Commission (FFAMC) –
1st point: "Establish FFAMC."**

The WSWG Coordinator prefaced discussion of this point by noting that the current FFAMC Chairman is to be invited to address a special plenary meeting of the AEC before the scheduled October 30 regular plenary session. The aim of his presentation will be to describe the Commission's performance and its duties, and then to entertain questions from AEC members. Should we be unable to reach agreement today, the Coordinator said, this session would be an opportunity to clarify the FFAMC's role. The Chairman stressed that the AEC's goal is to adopt the report at the next plenary (October 30).

The two parties then engaged in a brief explication of their positions on this issue. In the end, the two parties agreed to accept the original language, with this, the minutes of the drafting session on the WSWG portion, to make note of the disagreement between the two parties on the FFAMC's role and duties.

Discussion of the AEC plenary session then moved on to the Power Sharing Working Group.

# ASSESSMENT AND EVALUATION COMMISSION
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## The Three Areas

| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **PROTOCOL ON ABYEI AREA** | | | |
| **A. Abyei Special Administrative Status** | | | |
| **According Abyei Special Administrative Status** | Upon signature of CPA | The Presidency | Abyei has yet to receive special administrative status |
| **Abyei residents becoming citizens of both Southern Kordofan and Bahr el Ghazal** | Upon signature of CPA | As per agreement | Residents have yet to become citizens of both Southern Kordofan and Bahr el Ghazal. |
| **Representation of Abyei residents in the legislatures of Southern Kordofan and Bahr el Ghazal** | When relevant legislature comes to effect | The Parties | NCP: Abyei residents represented through their parties and within their quota |
| **Establishing Executive Council** | As per agreement | The Presidency | Executive Council yet to be established |
| **Establish mechanism to transfer shares of net oil revenue from Abyei Area** | As per Wealth Sharing Agreement | | Mechanism yet to be established |
| **Deployment of international monitors to ensure full implementation of this agreement** | After this agreement comes into force | International Community | International monitors have been deployed.<br>Interpretation between SAF and UNMIS differ on the extent of the area to be monitored as the SAF claim that the areas north of Abyei town are not considered |

# ASSESSMENT AND EVALUATION COMMISSION
## Factual Report
## on the Status of CPA Implementation, 2007

| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| | | | war affected. |
| **B. Administrative Structure** | | | |
| **Mechanism for appointment of members of Abyei Council** | As per Agreement on Abyei Area | The Presidency | The issue of Abyei remains unresolved. SPLM is of the opinion that the ABC report as submitted to the Presidency should be fully implemented. The NCP is of the opinion that that the experts have exceeded their mandate and that the report is *a priori* invalid. Common denominator is that the elements of the administrative structure and financial resources have not been implemented. |
| **Appointment of Chief Administrator and his / her deputy** | As per Agreement on Abyei Area | The Presidency | Idem |
| **Appointment of heads of departments** | As per Agreement on Abyei Area | The Presidency & Chief Administrator | Idem |
| **Determining the executive, legislative and financial powers and competencies of Abyei Area** | As per Agreement on Abyei Area | The Presidency | Idem |
| **Establishment of Courts for Abyei Area** | As per Agreement on Abyei Area | National Judiciary | Idem |
| **C. Financial Resources :** | | | |
| **Sharing of net oil revenue from oil produced in Abyei Area** | As per Wealth Sharing Agreement | As per Wealth Sharing Agreement | Idem |

# ASSESSMENT AND EVALUATION COMMISSION
## Factual Report
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| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **Mechanism of transferring other non-oil financial resources to Abyei Administration** | | | Idem |
| **Allocation from National Government to cover cost of establishment of the new administration, its running cost and provision of services** | Upon establishment of Abyei Administration | The Presidency | Idem |
| **Establishment of Abyei Resettlement, Reconstruction and Development Fund** | Upon establishment of Abyei Administration | Abyei Executive Council | Idem |
| **National Government appeals to international donor community to facilitate the return and resettlement of the residents of Abyei Area** | Upon signature of the CPA | National Government | GoNU, UNMIS and donors have established a broad returns strategy for the return and settlement of Abyei Area residents. |
| **Opening of Special Accounts for Abyei Administration** | After the appointment of the Chief Administrator | Abyei Executive Council | As under first element of B (Administrative Structure) |

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| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **D. Geographical Boundaries** | | | |
| **Establishment of Abyei Boundaries Commission** | Upon signature | The Two Parties | Abyei Boundaries Commission was established by the two parties |
| **Mechanism for selecting members of Abyei Boundaries Commission** | As per the Parties' attached agreed text of 17/12/2004 (Abyei Annex). Article (2) | The Two Parties | Mechanism was established and members to the commission selected |
| **Presentation of final report of boundaries on Abyei** | Before the end of the Pre-interim Period | Abyei Boundary Commission | The ABC Expert Report was submitted to the Presidency but parties differ over whether or not the report has officially been presented to the Presidency. |
| **Putting the Special Administrative Status of Abyei Area into immediate effect** | By the beginning of the Interim Period. Article (6) and (7) of the Parties' agreed text of 17/12/2004 (Abyei Annex) | | The special administrative status has not yet been conferred on Abyei. |

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| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **E. Residents:** | | | |
| **Mechanism for representation of residents of Abyei Area in the two legislatures** | Prior to elections | Presidency/National Electoral Commission | NCP: Parties are represented and selected through political parties and within quotas. |
| **F. Security Arrangements:** | | | |
| **Establishment of Abyei Area Security Committee** | As soon as the executive is formed | Abyei Administration | As under first element of B (Administrative Structure) |
| **H. Reconciliation Process:** | | | |
| **Formation and Deployment of Joint Battalion in Abyei Area (JIU Battalion)** | As per Ceasefire Agreement | JDB | Formation and deployment of JIU for Abyei has commenced with the arrival of the SPLA contribution in November 2005 followed by the SAF contribution in January 2006. |
| **Deployment of international monitors** | As per Ceasefire Agreement | As per Ceasefire Agreement | International monitors have been deployed. Interpretation between SAF and UNMIS differ on the extent of the area to be monitored as the SAF claim that the areas north of Abyei town are not considered war affected. |
| **Peace and Reconciliation Process in Abyei Area** | Upon signature of the Comprehensive Peace Agreement | The Presidency,<br>Abyei Area Council Administration,<br>Bahr El Ghazal,<br>W. Kordofan,<br>Civil Society | Several peace and reconciliation processes and conferences have taken place but these were set and up and led by the international community. The Presidency has yet to start the Process of Peace and Reconciliation. |

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## Factual Report
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| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **PROTOCOL ON BLUE NILE AND SOUTHERN KORDOFAN** | | | |
| **A. Preamble** | | | |
| **Settling the name of Nuba Mountains/Southern Kordofan & issues of merger** | During the current negotiations | SPLM and GOS Negotiating Teams | Name issue was settled by the SPLM and GOS negotiating teams. |
| **B. Popular Consultation** | | | |
| **Establishment of State Legislature** | Within the Pre-Interim Period. | NCP and SPLM | - Established for Southern Kordofan on 12 December 2005.<br>- Established for Blue Nile on 5 December 2005 |
| **Appointment of Governor and Deputy Governor** | After the Institution of the Presidency is formed | NCP and SPLM | Both Governors and Deputy Governors have been appointed |
| **Appointment of State Council of Ministers in Pre-Elections and Commissioners** | After the appointment of the Governor | State Governor and State Legislation in Consultation with the Parties | The Blue Nile State Government was formed on 5 November 2005.<br>A caretaker Southern Kordofan State Government was formed on 7 March 2006 and the executive part dissolved on 19 February 2007. A new executive took office on 27 February 2007. |

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| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **Establishment of Local Councils pre-elections** | After the appointment of Commissioners | State Governor in Consultation with the Commissioner. | Local Councils have been established. |
| **Establishment of State Security Committee** | Immediately after the State Government is in force. | The State Executive | State Security Committee has been established but, according to the SPLM, the composition is not according to the CPA. |
| **State Police Service, prisons W/life, fire brigade be recruited.** | Within the first six months of the Interim Period | State Executive (Institutions concerned) | NCP: recruitment in progress based on citizenship of the respective states.<br>SPLM: recruitment based on citizenship and quality but care should be taken that the police force should be reflective and representative of the local population. |
| **State Civil Service** | | | Civil Service not yet harmonized. SPLM and NCP do not agree on the percentages. |
| **C. The State Legislature :** | | | |
| **Drafting, preparation and adoption of State Constitution** | After the adoption of the Interim National Constitution and preparation of the State Model Constitution | - State Legislature<br>- Constitutional Review Commission | Both Constitutions adopted and signed. |

# ASSESSMENT AND EVALUATION COMMISSION
## Factual Report
## on the Status of CPA Implementation, 2007

| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **New Legislation/laws** | After the establishment of the State Legislature | State Legislature and Sate Governor | Legislation is being produced by both State Legislatures on a case by case basis. No enactment of new of revised laws required by the CPA, takes place. The Southern Kordofan State Legislature has been hampered by the absence of a State Constitution. |
| **D. The State Judiciary:** | | | |
| **Establishment of State Courts** | After the adoption of the State Interim Constitution | The State Judiciary | Existing State Courts have been confirmed in both Southern Kordofan and Blue Nile |
| **E. State Share in National Wealth :** | | | |
| **Collection of taxes and revenue** | Immediately after the new Government comes into force | State Executive | Taxes and revenue are being collected in both States |
| **Transfer of State's share of (2%) of net oil revenue oil producing States** | As per Wealth Sharing | As Per Wealth Sharing | 2% oil revenue is being transferred to Southern Kordofan |
| **State representation in FFAMC** | As per Wealth Sharing | As per Wealth Sharing | State is represented |
| **Transfer of State's share in NRDF** | As per Wealth Sharing | As per Wealth Sharing | NRDF is established but yet to be formed. |

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| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **Presidential additional allocation to State** | After the formation of the State Government | The Presidency | According to the NCP, the President has announced funding of projects during his recent visits to the states to be funded by the Presidency.<br>According to the SPLM, the additional allocation need to be budget based, not project based, and need to be coordinated with the SPLM. |
| **Establishment of Technical Committee for Division of government assets and disputes resolution** | Whenever dispute arises | GoNU and state concerned | Technical Committee yet to be established |
| **F. State Land Commission** | | | |
| **Establishment of State Land Commission** | After the establishment of the State Government. | The State Executive | State Land Commissions yet to be set up. Awaiting National Land Commission. |
| **Review existing land leases and contracts and examine the criteria** | On complaints lodged | - State Land Commission<br>- State Executive | Idem |
| **G. Security Arrangements** | | | |
| **SAF troops level in the two States** | After the formation of the Institution of the Presidency | The Presidency | NCP: SAF troop level during peace time to be established by the Presidency after establishment of the JIU and redeployment of the SPLA to under the 1-1-1956 Boundary. |

# ASSESSMENT AND EVALUATION COMMISSION
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| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **H. Pre-Election Arrangements** | | | |
| **Representation of the State in National Institutions** | As per Power Sharing and Wealth Sharing. | The Presidency | Representatives from both states are represented in the national institutions. |
| **Representation in national Legislative Assembly** | | | Representatives from Blue Nile and South-Kordofan represented in the National Assembly |
| **Representation in Council of States** | | | Representatives from Blue Nile and South-Kordofan represented in the Council of States |
| **Representation in the FFAMC** | | | Representatives from Blue Nile and South-Kordofan represented in the FFAMC |
| **Representation in Constitutional Review Process** | | | Representatives from Blue Nile and South-Kordofan represented in the NCRC |
| **Representation in NRDF Steering Committee** | | | |
| **Order in which each party assumes the governorship in each state.** | After the establishment of the Presidency | The Presidency | Implemented |
| **A. Southern Kordofan** | After the establishment of the Presidency | The Presidency | Nominees for the posts were submitted 4 months ago but no decision has been taken yet (SPLM). Deadline was 22 March 2007 |
| **B. Blue Nile State** | After the establishment of the Presidency | The Presidency | Implemented |

# ASSESSMENT AND EVALUATION COMMISSION
## Factual Report
## on the Status of CPA Implementation, 2007

| *Activity* | *Timing* | *Executing Body* | *Assessment & Evaluation* |
|---|---|---|---|
| **Fund for the War Affected Areas** | After the establishment of the Presidency | The Presidency | Not yet implemented |

# ASSESSMENT AND EVALUATION COMMISSION
# Factual Report
# on the Status of CPA Implementation, 2007

## The Three Areas

The implementation of the Protocol on the Resolution of the Abyei Conflict shows little progress as parties have not been able to reach final agreement on the way ahead with regard to the Abyei Boundaries Commission-report of 14 July 2005. The Protocols on the resolution of the Conflict in Southern Kordofan and Blue Nile have shown progress but the governments of the two states have to find a way to render the civil service more inclusive.

The AEC Working Group has convened eight sessions and organized a Special Plenary Session on South Kordofan and Blue Nile. The WG has mainly focused on the resolution of the Abyei conflict as this was determined a priority in the initial AEC-work plan. Convening of meetings on Abyei has on many occasions been subject to and dependent on developments outside the AEC-structure such as the Presidency-meetings at which Abyei was to be discussed. Improving the linkage between the Presidency discussions on Abyei and those in the AEC Working Group is important as is catering to the immediate needs of the people of Abyei.

### Resolution of the Abyei Conflict:

Progress with regard to the Protocol on the Resolution of the Abyei Conflict has been little as the key decision on the ABC-report, submitted to the Presidency on 14 July 2005, has yet to be taken. Parties differ on the validity of the report which prevents the further implementation of the majority of provisions of the protocol. The NCP is of the opinion that the ABC's experts have overstepped their mandate; therefore their report is not valid. The SPLM says the report is final and binding as it has been properly presented to the Presidency, therefore immediate implementation is required.

Both partners have held discussions within and outside the framework of the AEC to come to a solution. During the 1st Joint Meeting between the NCP's Leading Office and the SPLM's Politburo, parties agreed on four options to resolve the dispute: (1) to reach a solution based on political grounds; (2) Invite the experts to come and defend their report; (3) Refer the question for solution via the legal means i.e. to the constitutional court; and (4) Refer the question to arbitration through a third party approved by the two sides. The AEC Legal Expert provided a legal opinion on the Implementation of the Abyei Protocol. Thus far, the first option of pursuing a political settlement for the issue has been the preferred and agreed option between the Parties. Implementation of the other options has however not been excluded by either Party.

The discussions between the two Parties have not yet yielded any outcome. As a result Abyei has yet to be conferred its Special Administrative Status by the Presidency as is called for in the Abyei Protocol, and has its administrative structures set up. Due to this situation the provision of basic services to the people living in Abyei has been minimal. Parallel structures have emerged as stop-gaps.

The need to act in the interest of the people of Abyei has led to a discussion in the AEC between Parties, pending a final decision on the ABC-report, establishing an interim administration for a limited period of time and within provisional borders. In this discussion, Parties agreed on some of the features of such an interim administration such as the endowment of full administrative powers and financing by the Presidency.

Discussions are ongoing. Whenever Abyei receives its special administrative status and an administrative structure is established, calculations will be made of the net-oil revenues that should have been transferred to Abyei since the start of the CPA.

The first components of the Abyei Joint Integrated Unit (JIU) belonging to the SPLA entered Abyei on 28 November 2005 to be followed by its SAF counterparts on 5 January 2006. The JIU has been formed and deployed. However, the Abyei JIU is plagued by the common problems facing the JIUs as highlighted in the draft report of the AEC Security Arrangement Working Group.

The security situation continues to be unpredictable due to competition between Dingka Ngok and Misseriya tribes over scarce natural resources, basic services and the passage during rainy and dry season of Misseriya people and cattle. The redeployment of SPLA forces from East-Sudan and of Other Armed Groups from Khartoum has led to a constant passage of soldiers and arms through Abyei. Both parties state that the other is strengthening its military presence in Abyei, specifically around the oil-rich areas.

UNMIS monitors have been deployed in the Abyei Area since the signing of the CPA. However, UNMIS and SAF disagree on the area of monitoring. SAF is of the opinion that the area north of Abyei town is not part of the cease fire zone and thus therefore not falls within the scope of UNMIS' monitoring duty and has imposed restrictions to the area north of Abyei town. Consequently, SPLA has imposed restrictions to the area south of Abyei town. The difference in interpretation of this CPA-reference is still subject of discussion in the CJMC and CPC.

### Protocol on the Resolution of the Conflict in Southern Kordofan and Blue Nile

Overall, the implementation of the Protocol on the Resolution of the Conflict in Southern Kordofan and Blue Nile has seen substantial progress. However, both states are coping with the fiscal and policy decentralization that is part of the principles of the CPA and has led to significant problems and challenges. These problems and challenges are compounded by the specific transitional status of both States.

In both States, the appointment of the Governor and his Deputy, and the establishment of the Executive and the State Legislature have been completed. The State Constitutions have been adopted. Existing State Courts have been confirmed and are functioning. Also, both states are represented at the national level including the Executive, Legislature and various CPA-Commissions.

Due to the delays in forming the Southern Kordofan State Government and adopting the State Constitution, the State Legislature has not been working optimally and legislation/legal reform has been sparse. The delay in adopting the State Constitution also prevented the budget from being spent timely and efficiently.

In both States, the establishment of a State Land Commission is considered a priority in order to, inter alia; review existing land leases and contracts. The SPLM is ready to set up such a commission; the NCP states that first the National Land Commission at the national level should be established. Both SPLM and NCP agree on the fact that positions need to be filled based on citizenship, experience and professional qualifications. Both Parties agree to take into consideration to positively discriminate candidates from war effected areas.

Both Parties acknowledge the ongoing efforts to establish the police service at State level. Both Parties agree that the State Police Service shall adhere to national standards and regulations and recruitment be based on state citizenship, experience and professional qualifications. Efforts should be intensified to ensure that the police service is representative of the population of the respective state.

There are currently some SPLA troops and a number of Other Armed Groups (OAGs) active in Southern Kordofan which impact negatively on the state's security situation and on the

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integration and deployment of the Joint Integrated Units. Integration is progressing slowly and not all JIU-elements are co-located. A difference in opinion on whether or not

the PDF, mobile police and people's police are to be marked as OAG, is a potential problem.

Returns of IDPs have taken place throughout the last two years. Returns have been spontaneous and organized. The returns have put a strain on the already scarce resources of both states and have led to some tensions between local communities.

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## Security Arrangements

### Summary

1. 2007 is the year in which the majority of the Security arrangements are due for completion – by 9th July 2007 all redeployments, establishment and deployment of Joint Integrated Units (JIUs) and integration of Other Armed Groups (OAGs) should have been complete. Despite substantial progress, redeployments and the creation of effective JIUs have not been completed. Aside from the serious incident in Malakal in November 2006, ceasefire violations have been few and comparatively minor – the peace has held. Both parties have put great efforts into attending to the security provisions but mistrust remains, particularly on the SPLM side. Priorities remain:

a. the completion of redeployments;

b. the deployment, establishment, training, integration and local tasking of the JIUs with priority on their taking over security tasks in the oilfields, and in the Transitional Areas;

c. resolution of remaining OAG issues; and,

d. acceleration of the Disarmament, Demobilization and Reintegration (DDR) programmes.

### Cease-Fire

2. There has been one serious ceasefire violation, in Malakal in November 2006 with substantial loss of life and the deployment of heavy weapons. There has yet to be a Ceasefire Joint Monitoring Commission (CJMC) or other joint investigation which could lead to the perpetrators being brought to justice, but the significant presence at that time of other armed groups and an absence of integration of the Joint Integrated Units (JIUs) (whose components fought each other) were contributory factors. The situation was brought swiftly under control by the CJMC without whose intervention the conflict was set quickly to escalate. There have been a number of other, less serious, reported violations, mostly involving other armed groups. With the significant progress made in integrating OAGs since January 2006 it is hoped that such violations will markedly reduce.

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3. The Joint Monitoring Teams, Area Joint Military Commissions and the CJMC are operating effectively and there is good cooperation generally between the parties and the UN. Many issues of detail relating to separation of forces, ceasefire violations and redeployments have been dealt with effectively through the CJMC and its subordinate bodies. CJMC decisions are made jointly by the Chair a senior representative each of SAF and SPLA. The Ceasefire Political Commission (CPC) has operated although there was a period of some months in 2007 in which it did not meet. There remain some outstanding issues for resolution, including restrictions on freedom of movement of UNMIS in the Abyei area.

**Re-deployment**

4. The SPLA completed its redeployment from the East in mid 2006, although SAF maintains that some of these SPLA forces remain North of the 1.1.56 line. The UNMIS operation in the East consequently closed down.

5. SAF accelerated its redeployment from Equatoria and Bahr Al Ghazal in 2006 and maintains that it redeployed over 90% of its non-JIU forces from the South by the CPA deadline of 9 July 07, by which time there should have been no SAF troops, aside from SAF contribution to JIUs, south of the 1.1.56 border. The CJMC (UNMIS, SAF and SPLA) stated on 9th July that UNMIS had at that time verified the redeployment of 30,837 SAF from a declared start state of 46,403 (66.5%). The status of a further 8,919 voluntarily demobilized SAF was contested by the SPLA on the grounds that they believed that these forces had only been disarmed but continued to enjoy the status of SAF troops. For its part, SAF stated it would make after-service benefit payments until the end of 2007 from which time these ex-combatants would have no further links to SAF. This issue was taken by the CPC on 26th July and on 20th August 2007 the CJMC's position was that 87.4% of the SAF's 46,403 troops in the south had been redeployed, integrated into JIUs or demobilized.

6. SAF states it now has a total of 3,655 soldiers left in the South, predominantly in the oil producing areas. It justifies this on a need to protect a vital national asset while the JIUs are not ready to take over, and because it views that SPLA troops in the areas have not deployed to Assembly Areas. SPLM contests this position, asserting that no such conditionality exists in the CPA. The CPC has agreed a 3 track plan (deploy JIUs, SAF redeploy north, SPLA deploy to Assembly Areas) but the timetable is not yet clear.

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Planning is underway within the Joint Defense Board (JDB) and JIU command to ensure that the JIUs will be able to take on the task.

7. SPLM further maintains, independently of the CJMC position, that SAF has over 12,000 troops in Unity State, 7,000 in Upper Nile, a full brigade in Northern Bahr el Ghazal and 2 brigades in Western Bahr el Ghazal. The chair of the CJMC stated on 20th August that no large concentrations of SAF forces remained in the South. Malakal, the last remaining northern Garrison town in the South was handed over to the JIU on 9th July 07, although some troops have yet to redeploy.

8. SPLA currently retains forces in Blue Nile and in South Kordofan – its start figures were 22,601 in Nuba Mountains and 35,330 in Southern Blue Nile. Their redeployment should have been triggered by the establishment of the JIUs in those states and, separately, the CPA indicates that this should have completed by 15 months into the agreement. But there had been disagreement between the parties over the definition of 'establishment'. Nevertheless, the SPLA redeployment commenced in early July 2007. It is on temporary hold to allow UNMIS to put in place effective monitoring and verification measures. SPLA is concerned is that areas from which its troops have redeployed will become zones of insecurity.

### Establishment of the Joint Integrated Units (JIUs)

The second half of 2006 and early 2007 has seen the consolidation of the JDB and its supporting Joint Technical Committee (JTC) as a military-strategic decision making entity. The JDB deals with matters of weight, approving budgetary and other proposals constructed by the JTC and acting as a forum for discussion on wider CPA related issues complementary to the CJMC, CPC and AEC. There has been significant progress. There is an agreed Government of National Unity budget of approximately US$55m for the Joint Integrated Units in 2007. All JIU soldiers are paid monthly, now at a rate 65% above that of SAF, representing the special nature of the units. Officers and soldiers have a new, common uniform and JIU emblem. A number of vehicles have been bought and provision made for food for the whole of 2007. A contract has been let for prefabricated accommodation to meet the needs of locations where there is particularly poor infrastructure, and building is about to commence in Kadugli and Ad Damazien. The Common Military Doctrine and code of conduct have been agreed: a significant achievement. The JIU operational HQ in Juba is functioning and has recently issued training directives to the JIU Divisions. A 3 month pilot programme in Juba has seen the training and integration of two JIU companies and it is planned to continue this training on a brigade by brigade basis.

9. However, the flow of operating funds has all but stopped and no significant funding has yet been made available by the Government of National Unity's Ministry of Finance from the Presidency agreed budget for JIU training (although it is understood that an 'emergency grant' has been agreed). These funds are necessary if JIUs are to carry out essential integration training. Establishment and deployment of properly integrated JIUs remains key to the completion of the security arrangements.

10. On the ground, progress in establishing the JIUs has been slower than envisaged in the CPA which required the formation, training and tasking of JIUs to be complete in September 2006. On 20th August the CJMC stated that, overall, 80.1% of the total of 39,000 JIU troops had been mobilised (SAF 82.5%, SPLA 77.7%). However, while collocated, and with each JIU having a commander chosen on a rotating basis between SAF and SPLA, in practice the two command chains have generally remained separate, with separate administration and, to date, limited professional interaction. A proportion of the SAF elements in JIUs is comprised of former SAF-aligned OAGs. Suspicion remains on the SPLM side of some activities within the SAF elements of the JIUs following a serious incident in Juba that resulted in the arrest of SAF members of the JIU (SAF maintains that these personnel are innocent and that they have been held for over a year without trial). But despite these challenges, in some areas, Abyei and Wau in particular, joint patrolling has been underway for some time, with JIUs, working to State Governors, carrying out security tasks (in Wau the JIUs enforce a weapons-free policy). Some Joint patrolling is now underway in Malakal and Juba. JIUs are now positioned to take up security duties in Northern Upper Nile, where, the JIU Command says, practically no SAF remain, but are unable as yet, to move into oil producing areas in Western Upper Nile or Unity State. A particular success was the employment of a Joint Integrated Demining Unit which cleared the entire length (446km length) of the Babanousa-Wau railway connecting northern and southern Sudan. The unit has started work on the Kassala – Hamesh Koreib road in support of the East Sudan Peace Agreement.

11. Both sides maintain that they are capable of training themselves but have been reluctant to accept training from individuals on the other side. Together with funding shortfalls, this has militated against the delivery of the joint training essential both to improving transparency and transforming the units into effective, joint military forces. There is an acceptance on both sides at senior officer level that limited, impartial, international training assistance is essential to breaking this deadlock. The UK has provided

limited training assistance to JIUs for 2 years, and the Netherlands has recently contributed. Other donors seem willing, but only with the preconditions of the JDB's acceptance and the UN's role in coordination (UNMIS has agreed to the latter – it is in their mandate). The JIU command will present an initial list of training and logistical requests to the next meeting of the Joint Defense Board.

**Other Armed Groups (OAGs)**

12. There has been significant progress on the alignment and management of OAGs in the last year. Following the Juba declaration in January 06 the majority of former SSDF joined SPLA, and their training and integration are underway. Others OAGs have joined SPLA in recent months. SAF trained and integrated some of the remaining SAF-aligned OAGs into its JIU forces. On 26 June 07, NCP, SAF and SSDF jointly declared, with SPLM and SPLA present, that, in line with the OAGCC plan, accepted by the Presidency in March and which saw the end of SAF-aligned OAGs in the South by 9 July, that the SSDF no longer existed and that all former, SAF-aligned members had either been: integrated into SAF in the North, integrated into SAF and employed in JIUs in the South, integrated into other public ministries, or had been disarmed and demobilized. This disarming and demobilization took place with little warning, in the absence of a reintegration programme and neither DDR commission was involved. But it was welcomed by SPLM as a show of faith. A joint sub committee of the OAGCC was charged with following up details of the disbandment of SSDF, and it reported on 10th September that there remained no SAF-aligned Other Armed Groups in southern Sudan. The SPLM maintains that significant SAF-aligned OAGs remain in Upper Nile, parts of Jonglei and Unity, separate from established State and GoSS security structures. NCP has committed to remaining engaged on this issue and to meeting to resolve remaining difficulties.

13. On 6th September 2007 a group of senior SPLA officers and a group of 50 or so armed SPLA soldiers were detained by SAF at Muglad in South Kordofan. Their presence had been coordinated neither with SAF nor through the CJMC. The CPC's ruling on 8th September was that the incident was in relation to an OAG based in the North, in which a Brigadier had been accorded the rank of Brigadier in the SPLA. The OAG should be allowed to move, unarmed and in civilian clothes, with the SPLA party, to south of 1-1-56 within one week. This has not yet happened. The total numbers involved are as yet unclear but are thought to be several thousand.

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14. There have been a number of OAG related incidents in Khartoum over the 2 year period and the Ministry of Interior has made clear its determination to deal with any future incidents.

15. Activities of the LRA continue to be a concern for security in South Sudan but LRA related insecurity has substantially reduced since the beginning of the Juba talks.

## Disarmament, Demobilization and Re - Integration (DDR)

16. The Northern DDR Commission has been established and there has been a start to DDR activities in the North. The Southern DDR office has formally been created but as yet there is no cross-GoSS commission. The Southern DDR Office lacks capacity. And despite some improvements the UN DDR Unit suffers still from a shortage of capacity and lacks some credibility, particularly in the South – this is improving. Both parties have significant caseloads for DDR but limited operational activity has taken place, although the Northern DDR Commission has started work on disarming and demobilizing former combatants in the Transitional Areas. In the south, as nationally, there is no agreed re-integration strategy. A workshop in the South in March helped to energize the process but there has not yet been a follow-up meeting of a cross-Ministry southern DDR Commission. There has been some recent operational progress in the south in defining a programme for the DDR of an initial caseload of 25,000 SPLA.

17. The National DDR Coordination Council was not formed until after the establishment of the North and South structures. The National DDR Strategy was formally adopted recently by the National DDR Coordination Council, although some issues remain over the coordination of activities in the Transitional Areas.

**Annex V to the letter dated 15 July 2009 from the Chargé d'affaires a.i. of the Permanent Mission of the Sudan to the United Nations addressed to the President of the Security Council**

# ASSESSMENT AND EVALUATION COMMISSION

# MID TERM EVALUATION REPORT

### SUBMITTED PURSUANT TO THE

### COMPREHENSIVE PEACE AGREEMENT

### JULY 2008

3 July 2008

## EXECUTIVE SUMMARY AND RECOMMENDATIONS

The Comprehensive Peace Agreement (CPA) is an extraordinary achievement. It has proven resilient in the first three years of the interim period, despite delays and tensions. But outstanding issues need to be addressed to ensure success in meeting the challenges ahead.

The Assessment and Evaluation Commission is tasked in the CPA with monitoring its implementation. It is specifically required to conduct a mid term evaluation by 9 July 2008. The attached report is submitted in fulfilment of that requirement, and to complement the Factual Report submitted last year. It is intended to be analytical in character, evaluating the extent of implementation and what more needs to be done to secure the objectives of the CPA and make unity attractive.

The evaluation report stresses the interlocking nature of the CPA and how partial or non-implementation of one of the elements impacts negatively on others. All elements are therefore important and need to be implemented. The following recommendations, some broad, others specific, have been drawn by the Commission from the analysis in the evaluation. They are directed, unless otherwise stated, to the parties jointly. None are prescriptive; the AEC can advise and encourage; it is for the parties and the people to determine the way forward.

The evaluation does however highlight certain areas in which actions recommended are, in the Commission's view, critical for the sustainability of the CPA and unity arrangements. These are: resolution of the Abyei issue, starting with implementation of the Road Map; demarcation of the North/South border; timely preparation for elections and democratic transition; preparation for 2011 and beyond; and security sector reform, particularly in respect of the JIUs and DDR.

3 July 2008

**Power Sharing (pages 10 to 18)**

Much has been achieved in this area but schedules have slipped and many actions provided for in the CPA are overdue. At the level of the executive the importance of timely and collegial action in pursuit of CPA implementation is underlined, and has recently been demonstrated.

The following steps are recommended as being of particularly urgent priority in the power sharing section:

- A major focus now on preparations for the elections due in 2009, starting with passage this summer of the electoral law and establishment of the National Electoral Commission.
- Definition and demarcation as soon as possible of the 1/1/1956 North/South border
- Initiation, in the National Constitutional Review Commission, of consideration of modalities for the 2011 referendum in the South

Also of high priority:

- Pursuit of outstanding CPA – related legislation including, in advance of elections, the National Security Act and the Press and Media Act; and establishment of commissions still pending, including the Human Rights Commission.
- Initiation of a programme of national reconciliation, and confidence building measures in the spirit of the CPA.

Other actions strongly recommended for improving unity arrangements are:

- Continued pursuit of fair representation from both North and South in the national civil service; in light of the role played by the National Civil Service Commission, states might also consider establishing their own civil service commissions.

- Redoubled effort to ensure appropriate Southern Sudanese representation in national judicial institutions, and to reinforcing the judiciary in the south
- Greater support for capacity building in the Southern Sudan Legislative Assembly and state institutions
- Ongoing support for the work of the Commission for non-Muslims in the National Capital

**Wealth Sharing (pages 18 to 26)**

As reflected in the body of the report, the Wealth Sharing Protocol of the CPA is largely being implemented. However, there is room for improvement in terms of increasing transparency and, consequently, confidence by both sides. Accordingly, consideration of the following steps is recommended:

- To look for ways of improving the process for regular transfers of revenues by the GoNU to the GoSS.
- To consider within the framework of the Joint Technical Committee changes in the format, delivery and publication of monthly oil production figures and revenue transfers to take into account current GoSS capacity, in such a manner that will accommodate GoSS concerns about transparency.
- With assistance from the international donor community, to examine ways to build Southern capacity in order to boost Southern employment in the hydrocarbons sector.
- Creation of separate Oil Revenue Stabilization Accounts – one for the North and one for the South.
- To expedite the establishment of a systematic programme for consultation with and participation of communities in the management of natural resources, in particular oil; also to expedite formation of the committee charged with assessing the social and environmental impact of existing oil contracts.
- To make more use of the National Petroleum Commission.

3 July 2008

**The Three Areas (pages 26 to 34)**

The overriding priority is to implement the Abyei Road Map. To this end the following are specifically recommended

- A continuing sense of urgency with regard to deadlines, in view of the tense situation and the plight of the displaced:
- All necessary support and training for the new JIU; provision, and acceptance, of donor assistance in this regard;
- UNMIS to enjoy unfettered freedom of movement and to be proactive in exercise of its mandate and in support of the JIU; it should be strengthened as needed in the Abyei area;
- Flexibility on the part of the parties with regard to the composition of the Abyei Administration;
- Provision of international legal assistance with regard to preparations for arbitration
- Reconciliation between the Dinka Ngok and Misseriya to be actively pursued; agreements on grazing rights and routes to be built upon in discussions which should involve them

In Southern Kordofan and Blue Nile there has been more progress in implementing the relevant Protocol but the following are recommended:

- The delivery of quick high impact peace dividends to local communities in both provinces
- Further effort on integration in the police and public services in both these states
- Modalities for popular consultation to be fully worked up, to ensure completion of the process in the coming year

3 July 2008

**Security (pages 34 to 41)**

The evaluation recognises the importance of further security sector reform. It stresses the importance of completing the process of redeployment. It focuses in particular on Joint Integrated Units and Disarmament, Demobilisation and Reintegration. It recommends:

- Further work to transform JIUs into genuinely integrated units.
- Donor support for and implementation of a comprehensive programme of support for the JIUs, to include high impact "quick fixes", longer term training and infrastructure development.
- Implementation of the DDR programme, and donor support to that end;
- Compiling of information available on all DDR related programmes to allow effective co-ordination and, where appropriate, rationalisation.

Additionally it recommends:

- Joint Monitoring Committees to be given full access in the Three Areas
- The UN to be invited to attend the Joint Defence Board for matters relating to the JIUs and other matters in which the JDB agrees UNMIS has a concern, in order to ensure transparency in decisions and effective coordination

**International Support and Conclusion (pages 41 to 46)**

The report underlines the importance of international support for CPA implementation. It recommends:

- Generous donor support for CPA implementation in the coming period, including specifically for DDR; JIUs; elections; unity projects; and programmes in the Three Areas and along the border.

- That the parties make full use of UNMIS capabilities; it also recommends pursuit of the UN's intention to strengthen further UNMIS conflict prevention capacity.
- That the AEC play a more active role in offering ideas and support for CPA implementation and unity arrangements, recognising the scale of the challenges through to 2011; and that its staffing should be strengthened, with a presence in Juba.
- Encouragement of the broadest possible range of international support for CPA implementation, keeping under review the holding of high level international meetings to support progress and overcome blockages.

The conclusion notes the continuing importance of steps to build confidence and trust between the parties, and fostering North/South links and the spirit of the agreement, in ensuring that its objectives are met and in making unity attractive. It also recommends the development of joint arrangements across the political, economic, energy and security fields which look beyond 2011 and will obtain and be beneficial whatever the outcome of the referendum.

3 July 2008

## INTRODUCTION

## THE COMPREHENSIVE PEACE AGREEMENT: THE FOUNDATION OF PEACE IN SUDAN

The Comprehensive Peace Agreement is an extraordinary achievement. It brought to an end one of Africa's longest running civil wars which had caused horrendous loss of life and untold suffering It was the achievement of the two parties, now partners in peace.

The CPA was signed in Nairobi, Kenya on 9 January 2005. The agreement provides for a six year interim period for implementation, following an initial six month pre-interim period. It comprises a number of interlocking texts, covering political, economic and security issues, unprecedented in the history of peacemaking in Africa in its complexity and comprehensive nature. It was the product of years of negotiation.

Three years precisely have passed since the beginning of the interim period for implementation provided for in the agreement. During that time peace between the parties has been sustained. The ceasefire arrangements have for the most part held. Security has been established in most war affected areas, sufficient for some two million refugees and displaced persons to return. The constitutional arrangements and institutions provided for in the agreement, including the Government of National Unity, the Government of Southern Sudan and the national, Southern and state legislatures, were put in place expeditiously and have become familiar to the people of Sudan. Oil revenue has been shared.

In these and other respects the CPA has proved to be a resilient and successful instrument. But public appreciation for the peace it has brought is frequently mixed with concern about the perceived absence of a peace dividend and about delays in, and partial or non- implementation of, aspects of the agreement. Among the latter, failure to proceed with implementation of the Abyei Protocol and continuing uncertainty on and around the border between North and South have been persistent sources of tension and have led to violence. The recent heavy fighting and destruction in Abyei, and the displacement of its population, was by far the most serious instance of this to date, and probably the greatest challenge that has yet faced the CPA.

The partnership between the parties is the basis on which the CPA rests. They have repeatedly reiterated their determination never to return to war. Together they have worked through periods of serious strain: their success in this has been particularly noteworthy and important given the tragic incidence of conflict elsewhere in Sudan at the time. Their commitment, in December 2007, to revitalization of the spirit of the agreement and to specific measures to reinforce its implementation, carried with it the promise of new momentum. The census in April/May 2008 was an important step forward, as were agreements recently reached on arrangements for the disarmament, demobilisation and reintegration of ex-combatants. The Third Sudan Consortium meeting in Oslo on 6-7 May 2008 was a further encouraging development, bringing as it did generous commitments on the part of the international community of support for CPA implementation during the remaining three years of the interim period. Intensive negotiations between the parties following the fighting in Abyei led to agreement and signature on 8 June 2008 of a "Road Map for Return of IDPs and implementation of the Abyei Protocol".

Rapid progress on outstanding issues - first and foremost on the Abyei Road Map, and on the border - is now vital to sustaining momentum in the CPA. The new tasks ahead are formidable. The time set of 2009 for elections at all levels in Sudan, which are crucial to the democratic transformation promised by the CPA, is rapidly approaching. 2009 is also due to witness conclusion of the popular consultation provided for by the CPA in Southern Kordofan and Blue Nile. 2011 will see the referenda on self determination for Southern Sudan and the status of Abyei, and the conclusion of the interim period. The CPA is not just a framework for peace between North and South but the essential foundation for peace for the people of Sudan as a whole. Successful accomplishment of these tasks will provide the best possible basis for their shared future.

## EVALUATING PROGRESS AGAINST MACHAKOS AND OTHER CPA PROTOCOLS

The Assessment and Evaluation Commission was established under the terms of the CPA and is tasked with monitoring its implementation. The parties are enjoined to work with it in improving the institutions and arrangements created under the agreement and making the unity of Sudan attractive to the people of the South. It is composed of representatives of the parties and of governments which supported and witnessed the agreement. The United Nations, the African Union, the Arab League and the European Union are observers.

The Machakos Protocol is the starting point and opening protocol of the CPA. It sets out fundamental principles, the timetable for the transition and the political framework for the peace process. In it the parties agree on the priority of unity; confirm the right of self-determination for Southern Sudan through a referendum; and recognise the diversity of Sudan as a source of strength rather than division. It describes in broad terms the balance of responsibility between the national government and that of Southern Sudan and makes provision for freedom of religion and respect in legislation for applicable religious systems. The Protocol prohibits discrimination on grounds of religion, belief or custom. It provides for a repatriation, resettlement, rehabilitation, reconstruction and development plan to address the needs of war-affected areas and redress the historical imbalances of development and resources.

The Machakos Protocol requires the AEC to conduct an evaluation of the unity arrangements established under the agreement by the middle of the interim period, which corresponds to 9 July 2008. The report which follows is submitted in fulfilment of that obligation.

The report is intended to complement the Factual Report on the Status of CPA Implementation completed by the AEC in October 2007. It is designed to be analytical in character, offering an objective evaluation of the extent of implementation; what has been achieved; and what more needs to be done if the objectives of the CPA are to be met. It draws upon inputs prepared in the light of activity and discussions in the four AEC working groups (which mirror protocols of the CPA, focusing respectively on wealth sharing; power sharing; the three areas of Abyei, Southern Kordofan and Blue Nile; and security arrangements). It also addresses international support for CPA implementation: the international community was, in effect, the third party to the agreement and its interest and support were assumed at the outset to be important for its successful implementation.

The recommendations contained in the evaluation, and listed briefly in the Executive Summary, are designed to assist in advancing the implementation process and in making unity attractive. Some of the recommendations are self evident. Some may seem bold when set against the overall pace of implementation in the first three years of the interim period. But time is short given the number of issues still outstanding and the scale of the new challenges ahead. For the necessary momentum to be sustained tensions must be overcome and the issues approached in a revitalised spirit of the CPA - with each side demonstrating the goodwill needed to accommodate the concerns of the other.

## POWER SHARING

The power sharing protocol sets a bold agenda for Sudan, providing a new foundation not just for the relationship between North and South but between all levels of government, and between government and people, based on the principles of good governance, accountability, transparency, democracy and the rule of law.

Progress on the institutional framework has been solid. Over the last three years following adoption of the Interim National Constitution (INC), the main pillars of Sudan's new decentralised system including the Presidency, the Government of National Unity (GoNU), the Government of Southern Sudan (GoSS) and institutions at state level have been put in place (Annex A). But lack of full implementation, as well as lack of capacity at different levels, has had a negative impact. Major building blocks covered by the Protocol, including crucially border demarcation, have yet to be put in place. The backlog of legislation needs to be cleared, with particular priority given to preparations for the forthcoming elections due to take place in 2009 at all levels: unless urgent action is taken and the electoral law passed and the National Electoral Commission established, the timetable set for these in the CPA will slip. Preparatory work for the 2011 self determination referendum for the people of Southern Sudan is an emerging priority.

## Institutions

### National Legislature

The national legislature, consisting of the National Assembly and the Council of States, is operational, although observers for Abyei to the Council of States have yet to be appointed. The Inter-chamber Standing Committee is up and running. The Power Sharing Working Group noted improved coordination between the executive branch and the national legislature, and that the enactment of laws by decree has stopped.

The National Assembly has enacted substantive legislation (Annex B); but a number of major pieces of legislation envisaged in the protocol and important for CPA implementation are outstanding. These include, in addition to the electoral law, the National Land Commission Act, the National Security Act, the Press and Media Act and legislation to establish a Human Rights Commission. The delay in these areas is creating a bottleneck in the progressive implementation of the CPA at national, southern and state levels. Furthermore, much of the outstanding legislation mentioned will be important in underpinning the Bill of Rights, which is a central element in the Interim National Constitution.

National Executive

The announcement in October 2007 by the SPLM that it was suspending its participation in the Government of National Unity was a serious test of the CPA. A way forward was found with agreement between the parties in December which included a new matrix for Presidency action and new timelines. The SPLM rejoined the GoNU in January 2008 and a reshuffle of portfolios followed as agreed. The resolution of the crisis demonstrated the will of the parties to settle their differences through negotiation and compromise, and the resilience of the peace process. But as always much depends on follow-up. A pragmatic lesson from this and other testing episodes during the interim period so far would seem to be the central importance of mutual understanding and give and take within the institution of the Presidency when difficulties arise in CPA implementation, and the need for timely and collegial action to achieve consensus. Distance and pressure of commitments have been among the factors which have at times constrained the Presidency in addressing issues in this way. The matrix agreed in December 2007 provided for a permanent joint committee of the two parties within the Presidency to act as a "decision making task force": this could be one means among others of supporting joint decision making, and act as an early warning system when problems arise.

National Commissions

A number of independent commissions have been formed pursuant to the Power Sharing Protocol. They include the Fiscal and Financial Monitoring and Allocation Commission (FFAMC), the National Civil Service Commission (NCSC), the National Judicial Service Commission (NJSC) and the Commission on the rights of non-Muslims in the National Capital. Even though some major commissions have yet to be appointed, the National Constitutional Review Commission

(NCRC) has for the most part drafted the legislation (e.g. for the National Electoral Commission; the National Land Commission; and the Human Rights Commission). In the case of the Political Parties Council, legislation was passed in January 2007 but has yet to be implemented.

The time is now fast approaching when the NCRC will be expected to initiate deliberations on modalities for legislation in respect of the self-determination referendum for the people of Southern Sudan; the legislative burden imposed by the CPA is heavy, and experience with other major pieces of legislation suggests that achieving consensus will at best be time consuming. Early and careful preparation for this legislation will surely be needed. Work on this should therefore shortly begin. The AEC stands ready to facilitate studies, for example with regard to precedents elsewhere, should that be helpful.

### The Civil Service

The National Civil Service Commission is now functioning and has defined the mechanism for realising affirmative action. However, the reform and integration of the national civil service, which also affects civil service performance at state level, is behind schedule. The AEC considers that the formation of state civil service commissions and provision for training of state civil servants could be a useful complementary next step for any state that would like to do this. The matrix agreed by the parties in December 2007 helpfully reconfirmed their commitment to meet the targets for Southern participation in civil service positions and to accelerate the process.

### The Judiciary

The National Judicial Service Commission is operational, and receives external technical support and training. Acting on its recommendations, the Constitutional Court, the National Supreme Court, the National Court of Appeal and the other courts have been established and are operational.

Appropriate Southern representation in the higher national judicial institutions remains an important issue that needs to be addressed.

Progress has also been made in the establishment of a judicial system in the South. Judges have been appointed to the Supreme Court, the Appeal Court and the County Courts of Southern Sudan. The system is starting to be operational but there is a significant lack of qualified judges and administrative capacity. The judicial presence needs to be strengthened on the ground to promote public trust in the judicial system.

### Southern Sudan Legislative Assembly

The Southern Sudan Legislative Assembly (SSLA) has held five sessions. Among other initiatives it has embarked on addressing issues of official corruption. Capacity remains an issue, which has had an impact on the pace of legislation, including in respect of fourteen Southern Sudan commissions which were established by presidential decree in 2006 but which have not been the subject of legislation (Annex C).

### State-level Institutions

The state constitutions of the Northern and Southern states have all been adopted; the legislative, executive and judicial institutions in all 25 states of Sudan have been established and governors appointed. The issue of compatibility to the Interim National Constitution of the constitutions of the states of Southern Sudan remains to be resolved. A state constitution model has however been developed and agreed both by the Ministry of Justice and the Ministry of Legal Affairs in Southern Sudan.

Delays at state level, particularly in the South and in the Three Areas, have meant that the work of state assemblies has only just started; the consequent lack of key institutions such as state land commissions and state civil service commissions is hampering progress. Prioritisation will be important. Again, capacity needs to be developed through support and training.

## North/South Boundary Demarcation

Determination of the North/South border as it stood on 1/1/1956 was due to have been completed in the pre-interim period. It has yet to be done. The work of the ad hoc North/South Technical Border Committee tasked with reporting with recommendations to the Presidency is seriously behind schedule. Once it reports the Presidency will need time to consider its recommendations, and action will then have to be taken to demarcate the border. Delay in this area has implications for CPA implementation in a wide range of areas, including redeployment; wealth sharing and the allocation of oil revenues; and elections and electoral districts. Disagreement persists over certain areas along the border and the uncertainty contributes to tension and insecurity.

The Committee carried out a reconnaissance survey on the ground at the beginning of 2007. The Committee also travelled to the UK and Egypt in July 2007 to consult maps and archives. A workshop by the International Boundaries Research Unit of Durham University (UK) was held in Khartoum in February 2008, for further research and technical advice.

The Committee will need to finalise and deliver its recommendations on the border to the Presidency soon, not least to enable demarcation to be carried out before the holding of the elections in 2009. The parties will need to give the Committee every assistance in its work and safe access to all areas along the border will need to be guaranteed. Once the border is demarcated it will be important to ensure, through development projects in the area and through the promotion of local political, communal and commercial contacts across it, that it does not become a line of division but rather that the benefits of peace and reconciliation in the area, and the final settlement of border issues, contribute positively to making unity attractive.

3 July 2008

**National Population Census**

A significant milestone was passed with the holding of the national population census from 22 April to 5 May 2008. Delay due to GoSS concern over the exclusion of ethnicity and religion from the questionnaire and over security, resettlement and geographic coverage was overcome, albeit at the last moment and with residual reservations. The SPLM has voiced concerns since about the coverage achieved by the census. The responsible commissions and the UN have yet to issue their assessment and it will take some months before the results of the census are known. It will be important that this essentially technical exercise continue to be treated as such.

**Electoral Process and Democratic Transition**

The elections which according to the CPA are to be held by the end of the fourth year of the interim period, i.e. by 9 July 2009, are central to the democratic transformation envisaged in the agreement. Successful free and fair elections will be a key element in making unity attractive and in ensuring wider ownership of the peace process. The inter-locking preparatory work for the elections is lagging seriously behind schedule and new impetus is badly needed.

First and most important will be speedy adoption of the electoral law which was referred to the Presidency in March 2008. At the initiative of the Power Sharing Working Group the AEC met the Speaker and leaders of the NCP and SPLM in the National Assembly on 12 June 2008 to discuss this. Remaining differences were said by the two parties to be narrow and they have indeed since been resolved in the Presidency, and the draft law is now before the National Assembly.

UN experts, drawing on experience elsewhere, suggest that overall timelines will slip sharply if the electoral law is not adopted and the National Electoral Commission formed this summer. The Commission which is to be composed of independent, representative figures, is due to be appointed within one month of adoption of the law. Its role in subsequent election preparations, from raising awareness to supervising the complex process of countrywide electoral registration, will be crucial.

Other elements will need to be in place and implemented well in advance of the elections. Although the Political Parties Act became law more than a year ago, the Political Parties Council, which will register parties, has not yet been established. The census results and decisions in respect of the border will need to be available. To ensure a free and fair environment the security and broader reform legislation envisaged in the CPA, will need to be in place in advance of the election campaign. The passing of the Police Act in June 2008 has begun this process, but other legislation covering security and media remains to be enacted. Arrangements will need to be set in hand soon for international technical support and, in due course, for monitoring.

All this suggests that there should be a major focusing of effort now on preparations if elections are to be held next year, and democratic transformation achieved in a timely fashion consistent with the overall timelines in the CPA.

**National Reconciliation**

The CPA sets out to shape, through a six year interim period, a Sudan which is democratic and decentralised in which wounds are healed, diversity is respected and unity is attractive. The provisions of the power sharing protocol, like those of the CPA as a whole, interlock. A lack of forward movement in one area will impact on others. The different powers of the various levels of government established have to be respected, as do the rights of the citizen.

Achievement of this complex purpose requires a step change in attitude and a positive spirit of tolerance. The CPA makes provision for a programme of reconciliation and healing to be initiated by the GoNU. The idea was endorsed in the matrix drawn up in the Presidency in December 2007. Failure to move forward on it in an organised fashion risks perpetuating grievance. The objective, of redirecting effort into this area three years into the interim period, and giving it new priority, would not be to reopen wounds but to develop messages and programmes which help all to face up to the suffering of the past, to put it behind them and to open eyes to the reality of interdependence. Elder statesmen or women might be approached to assist with this. A process of peace education at both local and national level could help build a common vision of the future and foster a sense of shared goals. The delivery of positive messages on the part of leaders would be a necessary element.

The national capital should be a crucible for unity and reconciliation, not least because so many from Southern Sudan are resident there. The work of the Commission to protect the rights of non-Muslims in the National Capital, established in April 2007, is still at an early stage. Work to ensure broad representation of the people of Sudan in law enforcement agencies in the capital, envisaged in the CPA, needs to be pressed ahead.

## WEALTH SHARING

There is now good implementation of the provisions of the Wealth-Sharing Protocol. Oil and non-oil revenues are being regularly transferred by the Government of National Unity to the Government of Southern Sudan. Since the CPA was signed up to April 2008, the GoSS has received over US$4 billion in oil revenues from the GoNU.[1] The largest outstanding issue has been that of oil production revenues from the contested Abyei area; interim arrangements in respect to these were agreed and set out in June 2008 in the Abyei Road Map.

Arrears are now beginning to be paid and the trend is positive. Nonetheless, greater transparency over the oil sector, including on the transfer of revenues and the timely availability of oil production and sales data to the GoSS, would help to build confidence and trust between the parties. This is also needed in order for GoSS to improve their financial planning and cash management. There is now agreement on a plan to eliminate uncertainty over collection of national revenues in the South.

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[1] Reports of the Joint Technical Committee for Monitoring Net Oil Revenues, April 2008

### Sharing of Oil Revenue

Following agreement on the definition of the term "net revenue from oil", which allowed the two parties to work out a formula for sharing oil revenues, a system has been established to calculate net oil revenues. Revenues are now being divided and distributed on a continuing basis according to the formula stipulated in the Wealth Sharing Protocol which states that, after deducting 2% of net revenue for the oil producing states, the net revenue from oil from Southern Sudan is to be divided equally between the GoSS and GoNU. The transfers do not appear however to be taking place according to a regular schedule, which has led to uncertainty over whether the transfers are being made in a timely fashion. Agreement on a clearer process for transfers would do much to improve confidence between the parties.

According to information provided by the Fiscal and Financial Allocation and Monitoring Commission (FFAMC), the allocation of revenue by the GoNU to the GoSS for calendar 2007 was 2.798 billion Sudanese pounds, or about US$1.4 billion. According to the Joint Technical Committee reports, the allocation of revenue to GoSS for the first four months of 2008 was US$844.10 million[2].

### Arrears to the GoSS

The historical problem with arrears of transfers is now being addressed. According to information provided by the Petroleum Unit of the GoSS Ministry of Finance & Economic Planning (MoFEP), the annual amount of arrears owed to the GoSS by the federal government is getting smaller. A significant amount of arrears does however remain. For the year 2005, arrears totalled US$80.6 million, of which approximately US$44 million had been paid off by 31 January

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[2] Taken from the reports of the Joint Technical Committee for Monitoring Net Oil Revenues, Jan-April 2008.

2008. For 2006 of the US$64.2 million arrears, US$10 million has been cleared. For 2007: there were arrears of approximately US$32 million. Arrears in 2008 up to April of that year were over $28 million.[3]

### Monitoring of Production

A system to monitor the daily production of oil in all Sudan has been established. Monthly reports on oil production in Southern Sudan, together with the amounts of oil revenue transferred to the GoSS, are prepared by the Ministry of Energy and Mining (MEM), which are then reviewed and approved at regular monthly meetings of the Joint Technical Committee (which includes representatives of both of the parties). These monthly reports are then posted, in English, at the MEM's website[4]. However, the GoSS remains concerned that there is not sufficient transparency in the reporting and monitoring process. This concern could be addressed by making the information available to the GoSS in a more organised manner or according to a regular schedule. Overall oil production (and revenue) data should also be more easily available to the GoSS, reflecting its still developing technical capacity, and overall figures received by the GoNU could be made public, as transfers to the GoSS currently are. The disclosure by the NCP to the SPLM of the production sharing formula agreed between the GOS and oil concessions has helped improve transparency. The flow of information might improve further if the GoSS were to second more personnel to the MEM. Beyond this, regularly publishing overall figures, including indeed those for non-oil revenues, would change the terms of the debate about transparency and further build trust.

### Southern Employment in the Hydrocarbon Sector

The CPA set targets for employment of Southerners in all sectors of the national civil service including the oil sector and relevant ministries. There remains however a particular need to move more Southerners into positions in the hydrocarbon sector. The lack of them has exacerbated concerns in the South over transparency in the oil sector and the transfer of funds. This should be addressed through the provision of training and funding to build technical capacity in Southern Sudan.

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[3] Figures approved b y the Specialised Joint Committee for Monitoring, Calculating and Sharing Oil Revenues

[4] (http://www.mof.gov.sd/topics_show_E.php?topic_id=1)

**Oil Revenue Stabilization Account (ORSA)**

The two parties have agreed on a mechanism to monitor the Oil Revenue Stabilisation Account and have agreed the annual benchmark price. This is a continuing process. However, to reap the full benefits of an ORSA, more regular management of it is advisable. Currently, the GoNU withdraws funds from the ORSA, and simultaneously allocates funds to the GoSS. One change that is being considered would be to divide the funds allocated to the ORSA from the start, depositing the funds in two separate accounts, one for the GoNU and one for the GoSS. Each side would then be responsible for the management of its own fund. For the GoSS this would have the advantage of permitting its fund to accrue interest (not possible under the Northern banking system). This issue has been referred to the national Ministry of Finance for an advisory opinion as to whether it can be done.

**Oil from the Abyei area**

The transfer of a two percent share of net oil revenue to the producing states involved is being done on a continuing basis, as outlined in the CPA. However, the entitlement to oil revenue for Bahr el Ghazal, Southern Kordofan, Abyei, and the Dinka Ngok and Misseriya tribes was not established because borders for the Abyei area had not been agreed upon. This also meant that the entitlement to oil revenues of the GoSS from Abyei was not established.

Until agreement was reached on the Abyei Road Map the position was that oil revenue from the Abyei area was being distributed, by the GoNU, according to the area's current status as part of the North. The understanding was that, when

Abyei's special administrative status was implemented and an administrative structure established, calculations would be made of the net oil revenues that should have been transferred to Abyei since the start of the CPA[5]. The Presidency has stated that any and all funds owed upon conclusion of an agreement on the area's boundaries will be paid to all the parties concerned.

The Abyei Road Map provides for oil revenue from oil fields in the contested area now to be allocated, pending arbitration and subject to its outcome, in accordance with the Abyei Protocol ie shared between the GoNU, GoSS, etc. This should happen imminently.

**National Petroleum Commission (NPC)**

Responsibility for overall oversight of the petroleum sector rests with the NPC. The NPC was established by Presidential Decree in 2005 and the NPC's internal regulations were adopted on 19 April, 2007. The Joint Technical Committee on Oil Revenue has been formed and is functioning. The NPC's Secretariat is partially functioning, but is not yet fully staffed from the South. The NPC Secretariat has offices in Khartoum and has met once, in the summer of 2007, to decide the fate of Block B. It has met twice in 2008 (as of 8 May, 2008).

The NPC is supposed to develop policies, strategies and guidelines for the development and management of the oil industry. Issues that should be addressed by the NPC arise continuously. It is important that it is fully staffed in order to make it fully operational. Further, it is strongly recommended that both parties start to use the NPC much more actively.

**Sharing of Non-Oil Revenue.**

For a period following the signing of the CPA, difficulties were experienced in collecting non-oil revenues in the South, although both parties agree that the schedules of powers enumerated in the CPA are to be respected. The announcement by the Chairman of the FFAMC in April 2008, that the parties have cleared up confusion over the collection of non-oil revenues – in particular, taxes and customs duties – in the South is welcome and the GoSS and GoNU have established a Joint Non-Oil Revenue Sharing Committee to oversee sharing of national revenues collected in the South A system has been agreed on the agency charged with collecting these revenues, and how they are to be distributed under the terms of the CPA. The mechanisms necessary for full collection of revenues due by the relevant authorities have also been established and now need to be operationalised. Enabling legislation to allow taxation of these sources is under preparation by the GoSS. Information on state revenues is lacking. Agreement on a timetable (e.g., a date of every month) according to which revenues are to be transferred by the GoNU to the GoSS, would help ease concerns about the timeliness of revenue transfers.

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[5] AEC factual report, p. 55, "The Three Areas" section

**Other Areas of the Wealth Sharing Protocol**

Land Ownership

As noted in the previous chapter, on power sharing, a National Land Commission, which will enable a process to develop and amend the relevant laws to incorporate customary traditional laws and practices, has not yet been established. A consensus-building process to support the draft legislation emerging from the National Constitutional Review Commission is underway. Although establishing a Southern Sudan Land Commission has not yet been enacted, the Commission was one of those formed by decree in 2006 (Annex B) and personnel have been appointed.

Oil - Consultations with Communities; Existing Oil Contracts

As required by the CPA, the SPLM appointed a technical committee charged with having access to existing oil contracts. A team of Norwegian experts is currently engaged in the process of assessing the social and environmental impact of existing contracts. Once this assessment is completed it will be evaluated by the NPC. Any further work is then expected to be carried out by a joint technical committee formed from the GoNU and the GoSS, as selected by the NPC. The CPA states that persons whose rights have been violated by oil contracts should be able to seek remedy. The process whereby such affected persons can seek redress is ongoing. Some consultation with and participation of communities in the management of natural resources, in particular oil, has taken place. However, a systematic community consultation programme has yet to be developed.

## Equalisation & Allocation of Nationally Collected Revenues.

The National Revenue Fund (NRF) has been established, managed by the national Ministry of Finance. Revenues collected nationally are to be paid into the fund, and then the various shares going to the GoSS and the various states are to be paid out of the fund. The two parties have also agreed on an approach by which appeals can be directed to the international community for donor funds for reconstruction in Southern Sudan: the Sudan donors Consortium fulfils this role.

## Fiscal and Financial Allocation and Monitoring Commission (FFAMC).

The FFAMC, created by presidential decree to monitor vertical and horizontal allocation of revenues at the national level, is functioning and the current chairman has demonstrated a readiness to cooperate with the AEC. The FFAMC cooperated with the national Ministry of Finance in drafting a protocol that spells out how the two bodies are to interact and to share information. The FFAMC has devised a formula for allocating and distributing revenue resources to war-affected areas as well as a formula for distribution of revenues to all the states.

The FFAMC now needs the governments of the Southern states to provide the information requested by the Commission. The NCP has concerns that the establishment of a separate body, the Southern Sudan FFAMC, by the GoSS may be usurping national functions and is extra-constitutional. The SPLM contest this.

Division of Government Assets and Accounting Standards

The two sides have formed several committees to carry out the task of assessing and allocating assets between the various levels of government. Work on this task is ongoing. A National Audit Chamber and a Southern Sudan Audit Chamber have been established. However, the necessary enabling legislation has not yet been enacted for the Southern Sudan Audit Chamber.

Banking & Currency

Legislation establishing the dual banking system has been enacted. The Presidency appointed a Board of Directors for the Central Bank of Sudan Borrowing standards and requirements have been adopted by the Central Bank of Sudan (CBOS), which are embodied in an amended CBOS Act. The CBOS was restructured, and the Bank of Southern Sudan was established, and is in operation.

To foster a sense of national unity, the CPA called for the establishment of a new national currency. A new currency was duly issued on January 9, 2007, and was successfully phased in over the period ending 31 August, 2007, a major achievement.

Reconstruction & Development Funds

A National Reconstruction and Development Fund (NRDF) has been established by the Ministry of Finance of the GONU but is not operational. The GoSS has established a South Sudan Reconstruction and Development Fund (SSRDF) together with an oversight committee which are also not yet fully operational.

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The Abyei Road Map provides for the GoNU and the GoSS to contribute 50% and 25% respectively from oilfields in the areas under arbitration to a fund to be established by the Presidency for development of areas along the North South border and for financing joint projects. A Presidential decree has now been issued to this effect.

Two multi-donor trust funds (MDTFs) – one national in scope, and another for Southern Sudan – have been established and are in operation. (see also Pp 41-44) which cover international support). The GoSS has instituted a system for monitoring and evaluating accountability and transparency with the establishment of an Anti-Corruption Committee, as well as an Employee Justice Chamber and a Public Grievances Board.

## THE THREE AREAS

Security and development in the three areas of Abyei, Southern Kordofan and Blue Nile are essential for wider stability and sustainable peace in Sudan. Successful implementation of the CPA in respect of them is vital to the integrity of the agreement as a whole.

Abyei has historically been perceived as a bridge between North and South. It could be so again in future, a focus for economic cooperation and for unity. But for the past three years it has been the centre of contention. The Abyei Protocol was not implemented and disagreements over the border and administration and security led to rising tension. In mid May 2008 heavy fighting between the Sudan Armed Forces (SAF) and the Sudan Peoples Liberation Army (SPLA) resulted in Abyei town being largely destroyed and its population and that of the surrounding villages being displaced. This fighting is now the subject of an investigation in the context of the ceasefire mechanisms.

The fighting in May made new security arrangements in and around Abyei essential. It created a new humanitarian imperative, given the displacement of an estimated fifty thousand people. And it underlined in the starkest possible way the dangers inherent in the continued non-implementation of the Abyei Protocol for the partnership between the parties and for the CPA as a whole. The parties began intense negotiations within the framework of the Presidency, leading to agreement on the Abyei Road Map.

The Protocol relating to Southern Kordofan and Blue Nile states has been implemented, and there has been some concrete progress. But much remains to be done in both states.

In different parts of the Three Areas during the interim period there has been recurring tension between the SPLA and tribal and other groups aligned to the SAF, and conflict at local levels over access to water, land and grazing. In all three there is economic deprivation and a lack of basic services, including water health and education. For all of the areas the expected peace dividend has yet to be experienced. Only five per cent of the total estimated funding identified as being required for the Three Areas over the 2005-2007 period by the Joint Assessment Mission (JAM) has been forthcoming[6].

## Abyei

### The Abyei Protocol

The Abyei Protocol tasked the Abyei Boundaries Commission (ABC) with defining and demarcating the area of the nine Ngok Dinka Chiefdoms transferred to Kordofan in 1905. The ABC's report and recommendations, which it submitted to the Presidency on 14 July 2005, have not been acted on. The NCP state that the ABC exceeded its mandate and the report is therefore not valid; the SPLM disagree stating, that as it was properly presented to the Presidency, it should be implemented. The impasse has stymied progress on the majority of provisions of the Abyei Protocol, including establishment of an administration and division of oil revenues. A high level joint political committee meeting between the NCP and the SPLM in May 2006 led to agreement between the parties on four options for resolving the border issue: (i) to reach a political solution; (ii) to invite the experts to come and present/defend their report; (iii) to refer the question for solution through legal means i.e. to the constitutional court; (iv) to refer to arbitration through a third party approved by the two sides. The first option was the preferred route, although the other options were not excluded by either party.

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[6] Total costs of Phase I, 2005-7, of the JAM for development and reconstruction for the three areas were estimated at US$735 million; by the end of 2007, only US$38.7million was reported by the Government of National Unity as spent; Third Sudan Consortium – Joint Staff Assessment Report, p. 25

Growing frustration over the continuing delay in implementing most of the Abyei Protocol was one of the reasons given for the SPLM suspending participation in the GoNU in October 2007. The issue was not resolved when the SPLM returned to the GoNU in December 2007, but the parties did agree on the urgent need for a final settlement; they also agreed in principle to set up an interim administration. Discussion continued, covering this and interim border and wealth sharing arrangements, without an outcome until the outbreak of fighting in May.

In the absence of agreement, and the triggering of Abyei's special status under the Protocol, the wider area around Abyei was administered through the governorates of Warap and Southern Kordofan. Cooperation between governors at times proved useful in resolving disputes. But the absence of a Chief Administrator in Abyei, acceptable to both of the parties, and of a balanced administration acceptable to the local population, was felt acutely in Abyei town and the surrounding areas. It was reflected in the absence of much needed services and in the emergence of self administration and of parallel structures for policing and justice.

Failure to trigger the Protocol and establish an administration or borders also meant that such net oil revenues as should have been transferred since 2005 were not identified or allocated (c f page 21 above ). Additional resources might have been expected from the National Reconstruction Development Fund, but this has not yet become operational. Funds from the GoNU for services etc were contingent on establishment of an administration. All this of course meant that resources for the civilian population were severely stretched, and that at a time when persons displaced by the civil war were returning

## Security in Abyei

The security situation in and around Abyei over the past three years has been complex. In the absence of a delineated border each party deployed forces to areas contested by the other, which inevitably gave rise to tension. An Abyei JIU was in position but, in common with other JIUs, struggled with lack of resources and training: it imploded in the May fighting. An informal Abyei Security Committee – informal because of the absence of an Abyei area administration – functioned, incorporating the Commander of the SAF 31st Brigade, the Commander of the JIU (SPLA) and membership from the police NIIS and the Dinka and Misseriya communities, and proved effective in addressing some imminent security threats.

Tension was exacerbated by growing competition between the Dinka Ngok and Misseriya tribes over scarce natural resources, basic services and the passage during rainy and dry seasons of people and cattle. Local reconciliation efforts were successful in securing positive agreements on grazing rights along three of the main pastoral migration corridors - namely, the corridor that passes near Higlig to Unity; that passing around Abyei town; and that passing around Meiram. In future, priority should in the Commission's view be given to expanding these agreements, reconfirming the traditional rights of the Misseriya to graze cattle and move across territory and focusing on the safety both of the Misseriya and of people in the vicinity of the grazing routes.

UNMIS monitors were deployed in the Abyei area from the time of the signing of the CPA but their access was restricted. SAF's position was that the area north of Abyei town was not part of the cease fire zone and so did not fall within the scope of UNMIS' monitoring mandate. The SPLA in response imposed restrictions on UNMIS movement in the area south of Abyei town. Sporadic lifting of restrictions occurred on the ground but implementation even of such temporary freedom of movement was limited. The result was that monitoring of actual and potential conflicts was intermittent and ineffective including in the run up to the May fighting. The frustration of the UN Military Observers who AEC members met during their visit to Abyei on 28 May was palpable. Separate movement restrictions, and insecurity, also affected the work of UN agencies and International NGOs, hampering humanitarian and development work and other support to the people of Abyei.

Responding to the Abyei crisis: The Road Map

Abyei was discussed repeatedly at AEC plenary meetings in April, May and June 2008. An extraordinary plenary session was held in response to the crisis on 25 May 2008. On the same day, the CPC met and decided on the first steps to de-escalate the crisis. The AEC, including Mr. Deng Alor and Mr. Dirdeiri Mohamed Ahmed who subsequently signed the Road Map for the SPLM and the NCP respectively, visited Abyei, Agok and Muglad on 28 May 2008.[7]

The Road Map agreed by the parties on 8 June 2008 provides for the deployment of a new JIU and police to the Abyei area; withdrawal of SAF and SPLA troops; the return of those displaced by the fighting; and the establishment of an Abyei Area Administration with the special status set out in the Abyei Protocol.[8] These steps are to be taken within deadlines varying from ten to thirty days from signature. UNMIS is to enjoy freedom of movement. Interim boundaries for the Abyei Area are agreed. The dispute over the findings of the Abyei Boundary Commission is to be referred to arbitration, to be arranged through the Permanent Court of Arbitration in The Hague. In the meantime, and as already noted in the wealth sharing section of this report, oil revenue from the areas under arbitration (ie including the Higlig oilfield which lies outside the interim boundary) is to be allocated in accordance with the Abyei Protocol, and specified percentages of the GoNU and GoSS shares will go to development and unity projects along the North South border.

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[7] The Three Areas Working Group Coordinator's personal record of the visit is at Annex D

[8] Abyei Roadmap is at Annex E

The Road Map is a significant achievement, concluded within the institution of the Presidency with exemplary speed. Problems which had proven intractable for months, indeed years, were settled in days in the spirit of partnership implicit in the CPA. But the deadlines for implementation are very tight (appropriately so, given the tense situation on the ground and the plight of the displaced). Details remain to be settled. The same sense of urgency that obtained during negotiation of the Road Map needs to be sustained through the implementation period.

On the security side the Road Map helpfully acknowledges that lessons need to be learnt from experience with earlier JIUs. The new JIU now deployed in Abyei, and responsible for security throughout the area, needs to be genuinely integrated. It will need to receive generous support in respect of equipment and training if it is to be effective. UNMIS will need to work very closely in support of the JIU on the ground, and to be proactive in exercise of its mandate. Its freedom of movement within the area must be genuinely unfettered. It may need new personnel given what is in effect an enhanced role and area of operation. The parties will need to show flexibility with regard to the composition of the Abyei administration. Given recent history real priority will need to be given to reconciliation efforts involving the Dinka Ngok and the Misseriya. Finally, the parties have chosen arbitration as the means to settle their dispute over the findings of the Abyei Boundary Commission, and it would be wrong to anticipate that process. But once immediate implementation issues are settled they might wish also to discuss the longer term: the separate arrangements in the Road Map on land and wealth sharing could provide a model for the future.

Members of the international community have warmly welcomed the Road Map. International support for the return of the displaced and for reconstruction will obviously be important. But there is readiness too, including on the part of AEC members, to help in other ways. The Commission strongly recommends that the parties avail themselves of donor support offered for the JIU. Legal assistance with regard to preparation for arbitration is another area in which international partners may be able to be of assistance.

**Southern Kordofan and Blue Nile**

As already noted, there has been progress in implementation of the Protocol for Southern Kordofan and Blue Nile. The governors and deputies of both states have been appointed, the executive and state legislatures have been established, constitutions adopted and other institutions confirmed. Both states are represented at the national level, including in the executive, the legislature and in various commissions. As stipulated by the CPA, in July 2007 the first SPLM nominated governor of Southern Kordofan was replaced by an NCP nominee and the first NCP governor of Blue Nile was replaced by an SPLM nominee.

A key component of the Southern Kordofan and Blue Nile Protocol is the provision, as a democratic right, for a process of popular consultation to allow the people of both states to express their views on the CPA. The timelines for this are now short. The availability of public information to increase popular understanding of the CPA and what its implementation means for the two states will be important. A start has been made with the appointment in late 2007 of the two states' Assessment and Evaluation Commissions (AECs). The independent commission to be set up by the Presidency now needs to be formed.

Pending demobilisation or integration some SPLA troops, and elements of other armed groups, remain present in parts of Southern Kordofan. Lack of reconstruction and development has a negative impact on integration and security. For wider stabilisation the historical marginalisation of the Nuba needs to be addressed.

Delays in forming the state government and adopting the constitution in Southern Kordofan have meant that the legislature there has not had time to make much impact and have prevented budgets from being spent efficiently and on time. Both states, although represented on the FFAMC, are coping with the capacity challenges posed by fiscal and policy decentralisation. In the protocol the parties agreed that of the seventy-five percent of the total funds to be made available from the National Reconstruction and Development Fund for war-affected areas, allocations would be made in particular for Southern Kordofan, and Blue Nile; but as already noted the fund is not yet operational. The Presidency is also required to allocate an amount of money to each of the states. It is to be hoped that, as with Abyei, requisite funding will now become available expeditiously for both states.

Equitable representation of the parties and local communities has progressed in the top structure of government in both states but less well in institutions at the local or county level. To foster inclusion in both states, civil service commissions need to be established and integration carried forward in the civil service. It is also important to quickly move forward on police reform, including on the bringing together of parallel and different systems. As efforts to establish the states' police services are stepped up, it will be important to ensure that they are representative of the local population.

In both Southern Kordofan and Blue Nile there is strong competition between pastoralists, settled communities and returnees over land. Both parties agree that the establishment of state land commissions which would, among other things, review existing land leases and contracts, is a priority. According to the CPA, state land commissions can be formed in advance of the establishment of a national land commission, so delay in establishing the latter should not impact at the state level. Issues of land access and ownership are invariably complex and demand long-term engagement: it is to be hoped that work on this issue can begin as soon as possible.

## SECURITY

The overarching achievement of the Comprehensive Peace Agreement (CPA) is that the seemingly intractable civil war between North and South has ended and that over the last three years the larger peace has prevailed. This has been underpinned by a number of security reforms and measures. The Joint Integrated Units (JIUs) have been formed and co-located and significant progress has been made in redeployment and in the integration and disarmament of other armed groups (OAGs). Significant first steps have also been taken on disarmament, demobilisation and reintegration (DDR). These are major achievements which are central to the successful implementation of the CPA. There are, nonetheless, important challenges that remain to be tackled. The JIUs need greater support and attention; there is continuing insecurity in many parts of the South and intermittent conflict in the Three Areas which needs to be addressed; redeployment needs to be completed; the pace of DDR needs to be stepped up; and security sector reform more generally needs to be carried forward.

### Cease-fire arrangements

The institutional arrangements relating to the ceasefire and monitoring have bedded down and are functioning well. The Joint Military Teams (JMTs) have been established to provide feedback to each of the six Area Joint Military Committees. They report to the Ceasefire Joint Military Committee (CJMC). UNMIS, the Sudan Armed Forces (SAF) and the Sudan People's Liberation Army (SPLA) are represented in both of these bodies. The CJMC has been effective in resolving disputes and played a leading role in resolving the conflict in Malakal in November 2006. It has also been active in issuing formal reports to the Ceasefire Political Commission (CPC), which has helped build confidence between the parties: both the CJMC and the CPC were actively engaged in May 2008 in efforts to de-escalate and resolve the conflict in Abyei area. The CPC reports to the Presidency. The Joint Defence Board (JDB) oversees the implementation of the security arrangements. The JDB also oversees the deployment of the JIUs.

UNMIS reported no ceasefire violations between the SPLA and SAF from July 2006 to May 2008, which is welcome evidence of adherence to the CPA principle of resolving problems through dialogue and political will. The fighting in Abyei in May 2008, however, served as a very sharp reminder of the continuing risk of resumed conflict between them in areas along the border. Ensuring the freedom of movement of UNMIS, as already mentioned in the previous section, as well as reconfiguration of UNMIS deployment to potential flashpoints, would help to contain that risk.

Heavy fighting between armed groups of Misseriya / elements aligned to the SAF and the SPLA did however continue to occur during the period under review in the areas south of the town of Abyei, straddling South Kordofan and Bahr el Ghazal and near Kharsana. There were also ongoing acts of violence involving armed individuals in the transitional areas and in different parts of Southern Sudan. While such problems continue full security between North and South cannot be said to have been achieved. In the meantime the JMTs need to be granted full access across the Three Areas in particular, in order to become fully effective. A UN presence on the JDB when discussing JIUs and other matters in which in which the JDB agrees UNMIS has a concern would help greatly to ensure fuller transparency of security decision making and enhance co-ordination between UNMIS and the parties.

**Status of Other Armed Groups (OAGs)**

There has been significant progress in integrating OAGs over the last eighteen months. The SPLA states that all OAGs have now been integrated and the completed nominal rolls have been received by the CJMC. SAF have also declared that they have integrated or disarmed all former aligned OAGs. This claim is contested by the SPLA and UNMIS has confirmed that at least one OAG has been involved in fighting elements of the SPLA. The SAF argue that the existence of groups north of the "current border line" falls outside the scope of the CPA - though the CPA states that no armed group allied to either party shall be allowed to operate outside the two forces.

**Redeployment**

The UN verified figures for the redeployment of SAF either side of the "current border line" in April 2008 was nearly 98% per cent. Given standard variations in categories such as deserters and those on leave, this figure represents complete redeployment of the SAF. Measurement of SPLA redeployment is continuing and involves frequent recounts of troops in the designated assembly areas. Given the number of soldiers on leave or hospitalised at any one time, the numbers verified have varied. Nonetheless, the official figure for SPLA redeployment stood in April 2008 at less than eleven per cent.

The SPLM offer a number of reasons for the low figure of redeployment, among them being the delays in demarcation of the North - South border: the NCP dispute this. It is important that the process of redeployment be completed. Following the fighting in May, redeployment of the forces of both sides away from the immediate area of Abyei town is now agreed.

**Status of Joint Integrated Units (JIUs)**

The deployment of militarily effective JIUs is key to the completion of the CPA security arrangements. Not only would they form the core of a future national army, they also have important symbolic value as an expression of co-operation between the SAF and SPLA. They enable the two parties to maintain a shared military presence in strategic areas where a lack of trust would make it difficult for either to withdraw completely. If properly constituted, trained, equipped and deployed as originally envisaged, the JIUs would also be able to provide support to the organisation of the elections and referenda and play a positive role in the detailed implementation of DDR programmes. More widely, they could provide the vehicle through which to continue to build trust between the parties and a shared vision of the future.

Good progress has been made in setting up the JIUs, though a good deal remains to be done if they are to be genuinely integrated. Over eighty five per cent of the total number of individual soldiers authorised under the CPA to join the JIUs have now been deployed to their designated units. The force, totalling some 39,000 soldiers, is split equally between SAF and SPLA members, all units have been formed and most have deployed. It comprises a JIU headquarters in Juba, five divisional headquarters and twelve brigade headquarters. Forty seven battalions tasked with security, are now deployed in Khartoum, the Three Areas and across much of the South.

The JIUs have achieved some operational success. Joint patrolling is underway in a number of towns, with JIUs, working to State Governors, carrying out security tasks, including security of the oil installations. The deployment of a Joint Integrated Demining Unit to clear the Babanousa-Wau railway (445 km) connecting Northern and Southern Sudan has been a particular success. Despite these achievements, lack of resources and of training has prevented the JIUs from developing into militarily effective and integrated units. Indeed, rather than acting as pillars to support the CPA, their lack of resources constitutes a potential threat to its implementation.

The urgency of further support for the JIUs was made apparent to the AEC Security Working Group during their visit to Juba and Bentiu in March 2008. The JIUs lack access to fresh water, leading to cases of typhoid, non-deployment in some areas and withdrawal after initial deployment in others. Access to scarce water also has the potential to cause conflict with local communities. Infrastructure, including accommodation, is inadequate and sanitation is consequently poor, contributing to well above average levels of malaria and HIV. The director of the JIU hospital in Juba believes that levels of malaria, typhoid and HIV within the JIUs are just below epidemic level. No unit has a vehicle or any communications systems, rendering them operationally ineffective and unable to evacuate serious medical cases. Units are not able to carry out basic training and inactivity is causing low morale and indiscipline. The JIU HQ is not properly able to exercise its command and management function due to a critical absence of communications equipment and effective office facilities. Transport is also an issue, but not as grave as at brigade and battalion level. The Working Group concluded that, unless action is taken to remedy these shortcomings, conflict within the JIUs could break out and escalate in the south. The serious ceasefire violations in Malakal in November 2006 when components of the JIUs fought each other, and in Abyei in May 2008 when under the strain of conflict the JIU imploded and members also fought each other, serve as a reminder of this wider risk.

Under the terms of the CPA, the Government of National Unity (GoNU) is obligated to fund the JIUs, with the support of the international community. The GoNU has released sufficient funds to pay salaries and provide uniforms, but has only disbursed around forty per cent of the JIUs' 2007 budget allocation. As a priority the full allocation needs to be released. Lack of political trust and will between the parties contributed to delay in the deployment of the JIUs. Now that the parties have, over the last six months, opened the door to greater UNMIS and international support the opportunity exists for others to do more. UNMIS, which is mandated to support the JIUs, could step up efforts within their existing assets. Help might include engineering support to improve basic infrastructure, and cadre training. A start has been made with the establishment of a JIU support cell in UNMIS through which support can be channelled. The international community should respond to the need for inexpensive "quick fix" but high impact actions, a longer-term training programme and provision of resources. As already noted assistance in this regard to the new Abyei JIU will be particularly important.

**Disarmament, Demobilisation and Reintegration (DDR)**

Successful disarmament, demobilisation and reintegration is essential for the development of an appropriately sized, efficient and democratically accountable armed force. It would also remove a potential source of future instability, meet the moral obligation towards former combatants and their dependants – especially special needs groups (disabled, women and former child soldiers) - and relieve some of the current crippling budgetary pressure on both north and south. But success will depend on an integrated, well-planned and funded, coherent approach. Particular attention will need to be given to implementation in parts of the Three Areas, given the tension that has prevailed.

Progress over the last two years has been constrained in part by organisational problems in the UN Integrated DDR Unit (UNIDDRU) and by a lack of political engagement. Over the last six months these problems have been resolved and significant progress has now been made. This has been particularly marked at the political level. The National DDR Coordinating Council (NDDRCC) has convened and Joint Coordination meetings between the North and South Commissions are now regularly taking place. This has been complemented by the formation of a UN DDR Steering Committee. A successful DDR Round Table of GoNU, Government of Southern Sudan (GoSS), UN and donors on 9 April led to several clear recommendations on the way forward.

The NDDRCC has adopted a national strategy, although a small number of policy issues remain outstanding, and has agreed a reintegration policy. Most significantly, agreement on the size and scale of the multi-year DDR programme has now been reached. This will target 180,000 individuals (split evenly between the SAF and SPLA) in the CPA areas over four years. The SPLA has already registered over 25,000 candidates and the SAF nearly 26,000. These figures include significant numbers of special needs groups – 5,284 women and 17,500 disabled combatants. While the eligibility criteria have been elaborated in the National DDR strategy, it will be necessary to provide to the international community a clear selection process for DDR candidates. In particular, there needs to be provision in place that would disqualify individuals who receive pensions from also receiving (pro-rated) reintegration benefits.

The UN has proposed late 2008 as a realistic start date for the introduction of a DDR programme that will be in time to make a difference to CPA implementation. Time is therefore short. There is a pressing need to agree a date to begin the demobilisation phase. It will be important to have effective reintegration programmes well developed and funding in place in order to avoid the risk of a significant gap between demobilisation and reintegration.

The total cost of the DDR programme is set at US$566 million; with around US$430 million for reintegration and around US$136 million for disarmament and demobilisation. Agreement has been reached on a per capita cost of US$3000 as the Government's estimate of the needs for reintegration. Of this amount US$1750 is the assumed costs of individual support to ex-combatants, to be largely funded by donors. The Government of National Unity and the Government of Southern Sudan will contribute a certain percentage as well as seek funding for the remaining US$1250. On top of the sum requested for individual support to ex-combatants, support is also sought for a US$550 million community security and arms programme in the Northern states and for a US$62 million community-based development package in the South: however these programmes are at a very early stage of development.

The overall estimate for the above programmes is extremely high and will compete with other funding priorities in Sudan. It will be important to ensure that elements of the community-based programmes do not overlap with other recovery and development efforts. Implementation of an effective DDR programme will need to incorporate sufficient managerial and planning capacity. The formal involvement of relevant ministries in the implementation of reintegration programmes will be important.

Overall, significant progress has been made in preparing for DDR in recent months. Most recently, on 25 June 2008, the GoNU, the GoSS, and the UN signed in Geneva a multi year project document for the reintegration component of DDR: the funding mechanism for receipt of voluntary contributions was also agreed. The signature of this document, covering an important aspect of CPA implementation, is an important step forward. However several planning challenges remain, including with regard to demobilisation procedures and modalities as well as capacity building for national DDR entities.

## INTERNATIONAL SUPPORT FOR THE COMPREHENSIVE PEACE AGREEMENT

The international community's interest in and support for the CPA was demonstrated at Naivasha. The parties, in the chapeau to the agreement, appealed for continuing support as it was implemented. Naivasha created expectations with regard to the international community's role in implementation as well as that of the parties.

Since then the UN Security Council, IGAD, the African Union, the Arab League and the European Union, among others, have repeatedly underlined their support for full implementation. This support has received vital practical expression through UNMIS and through financial and technical assistance, including crucially that initiated by the Joint Assessment Mission (JAM) and the first Sudan Consortium meeting in Oslo. It has also been reflected in the continuing active participation of the governments and organisations which are AEC members or observers in the work of the Commission.

It is not the purpose of this report to repeat analysis undertaken elsewhere in recent months of international assistance in the first half of the interim period and of the impact of other demands, notably those relating to the situation in Darfur, on such assistance; or of the role of UNMIS. The issues are fully covered in the Joint Staff Assessment and the Joint Report of the Government of National Unity and the Government of Southern Sudan prepared for the Third Consortium meeting; and in the reports of the UN Secretary General to the Security Council relevant to the CPA and to the fulfitment of UNMIS' mandate, the most recent of which was submitted on 22 April. Rather the purpose is to emphasise the importance of continuing support in the coming period, and also to highlight priorities which are particularly relevant to the objectives of the evaluation.

In terms of assistance the Third Consortium meeting in Oslo had before it proposals for early recovery and development programmes from international agencies and from the Government of National Unity and the Government of Southern Sudan which, if funded, should have a real impact on perceptions of the absence of a peace dividend – perceptions which were fed in part at least by the slow disbursement originally of aid pledged through the Multi Donor Trust Funds and the inevitable focus in the South on capacity building and humanitarian assistance. Some US$4.8 billion was pledged at the latest Consortium meeting. The continued deep divergence in the level of development between the different regions, the poor performance of Sudan against the Millennium Development Goals indicators and the centrality of the CPA to peace in the country as a whole all argue for generous international assistance in support of implementation in the second half of the interim period.

As already suggested priority areas for such assistance of particular relevance to the objectives of this evaluation include the elections due to be held next year when very substantial assistance, both technical and material, will be required; DDR and JIUs; and funding, both national and international, for services and development projects in the Three Areas and along the border. Emphasis should also be placed on the unity projects presented by the two governments and designed to put in place infrastructure to link the South and North of Sudan, facilitating and supporting an interdependence which is important economically and socially to communities throughout the country (the agreement reached in the Abyei Road Map on the use of funds derived from oil revenue from the area under arbitration holds out the promise of some new national funding to kick start some of these).

UNMIS is the visible manifestation of the international community's commitment on the ground. It can help sometimes with community and local infrastructure projects. Its role is crucial in providing expert advice and support to the parties. As implementation moves forward the tasks evolve or increase, as now in relation to DDR or election preparations.

The Commission would wish to take this opportunity to stress again the importance it attaches to the parties making the fullest possible use of UNMIS' capabilities, especially in helping to contain and defuse tensions when they arise. In this context it is worth noting again the extent to which restrictions on its freedom of movement are self-defeating in terms of the parties' interest in preserving the peace. UNMIS' intention to strengthen still further its conflict management capacity and work to support local conflict management is particularly welcome in the light of recurrent instances of violence, including between local communities, in the South and the border areas.

The AEC's monitoring role will grow in importance as the major milestones of the second half of the interim period – elections, popular consultation, the referenda – approach, and decisions are taken on outstanding issues such as Abyei and the border. As an institution it is meagrely staffed, but it brings the parties together on a regular basis with governments from the region and beyond with a longstanding record of support for and experience of the peace process. The

AEC staff is being strengthened and a staff presence should be established in Juba.

The real test for the AEC in the coming period will be whether it can carry out its mandate not just by regularly monitoring arrangements through discussion but also by working with the parties to develop ideas and recommendations which help in improving the institutions and arrangements created under the agreement and in making the unity of Sudan attractive, as stipulated in the Machakos Protocol. In this it will continue to be dependent not just on its staff and international members but also crucially on the cooperation of the parties and on the active support and participation of observers – the United Nations, the African Union, the Arab League and the European Union. The recent enhanced participation of the AU, Arab League and EU has been particularly welcome.

The AEC's importance derives from the unique and specific role conferred upon it by the CPA. But regional and international interest in the successful implementation of the CPA extends far beyond the AEC membership or, for that matter, the donors represented in Oslo. The AEC should look for ways to encourage the broadest possible international support for this objective in the coming period. AEC members and others should keep under review the idea of a high level international meeting or meetings at future stages in CPA implementation to support progress and help overcome blockages.

## CONCLUSION: MAKING UNITY ATTRACTIVE

The introduction to this evaluation spoke of the possibility of new momentum in CPA implementation, and of significant milestones which have already been passed during the course of the present year. The solid achievements of the first half of the interim period will have been evident from the subsequent sections of the evaluation. Full implementation of every aspect of the CPA was always likely to prove extremely challenging. The burden on the parties and on all branches of government has been heavy, and the transformations achieved impressive.

But recent events in Abyei have highlighted a major threat to the stability of the agreement resulting from lack of implementation. As the evaluation has demonstrated there is a backlog of outstanding actions which, given the interlocking nature of the CPA, need to be addressed to ensure success in meeting the challenges ahead, including notably that of next year's elections.

Implementation is of course not just a matter of putting arrangements in place. If the objectives of the CPA, in particular in making unity attractive, are to be met the parties need to make, and to be seen by the people of Sudan to make, every effort to achieve full implementation and to reflect and foster the spirit of the agreement and the guarantees of individual rights set out in the Interim National Constitution. Building confidence and trust, and fostering links between North and South, is as important now as in the early days of peace.

Indeed one could argue that it is more important. The CPA has at its end point an uncertainty, or uncertainties, in the shape of the 2011 referenda, and the exercise by the people of the South of their right to self-determination. In the section on the Power Sharing Protocol we noted the importance of beginning soon the practical studies and preparation which will be needed before measures are adopted in respect of the referendum in the South. The whole thrust of this evaluation has been to identify at the mid point in the interim period those steps which are now, or will soon be, necessary to ensure the agreement's success and thus make unity attractive. It will be important to use the next three years to put in place links and to develop arrangements across the political and economic, energy and security fields which look beyond 2011 and will obtain and be beneficial whatever the outcome of the referendum. The successful negotiation of the Abyei Road Map could provide the impetus for this. The development of such arrangements, reflecting the fundamental interdependence of North and South, will be important to lasting peace in Sudan.

# APPENDICES

## A: Institutional measures taken in implementation of the CPA

Adoption of the Interim National Constitution (INC)

Establishment of the National Legislature

Establishment of the Institution of the Presidency

Appointment of the Government of National Unity (GONU)

Establishment of the National Judiciary

Adoption of the Interim Southern Sudan Constitution

Establishment of the Southern Sudan Legislature

Appointment of the Government of Southern Sudan (GoSS)

Establishment of the Southern Sudan Judiciary

Adoption of the 25 State Constitutions

Establishment of the State Legislatures

Establishment of the State Governments

Appointment of the State Governors

Establishment of the State Judiciaries

## B: Legislation enacted during the first six sessions of the National Assembly:[8]

### 1st session (31st August 2005 – 22nd February 2006)

Constitutional Court Act (2005)

Judicial Service Commission Act (2005)

Bank of Sudan (Amendment) Act (2005)

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[8] This text is based on the list handed out on 12 June 2008 at the AEC special plenary session at the National Assembly

Resources Allocation Act 2005

Financial appropriation (general budget 2006) and accompanying Acts 2005

Joint/Integrated Forces Act, 2005

Voluntary end Humanitarian Work Organisation Act 2006

2nd session (17th April 2006 – 3rd July 2006)

Insurance control (amendment) Act 2006

3rd session (30th October 2006 – 24th January 2007)

Financial resources sharing 1999 (repeal) Act 2006

Bank of Sudan (Amendment) Act (2006)

Financial provision (General government expenditures, expenditure for development, for taking a share in the Capitals of Public Companies and Corporations) in the period from 1/1/2007 to 31/12/2007, Act 2006

Income Tax (amended) Act 2006

Value Added Tax (amended) Act 2006

Capital profits (amended) Act 2006

Procurement of resources and revenues in the period from 1/1/2007 to 31/12/2007 Act 2006

National Civil Service Act, 2007

National Civil Service Commission Act 2007

Political Parties Act, 2007

Accountability of the National Civil Services Act 2007

Development fund of Southern Sudan and the War-affected Act (Repeal) Act 2007

Development of Mineral Resources and Mining Act 2007

4th session (4th April 2007 – 11th June 2007)

The National Information Crimes Act 2007

Electronic Transactions Act, 2007

Al-Nelain Bank group for industrial development act (1994) (repeal) Act 2007

## 5th session (24th October 2007 – 17th January 2008)

Resources and Revenue Allocation Act – from 1st January to 31st December 2006 for the year 2007

The National Budget Act (the Public Revenues, government expenditure and Acquisition of Financial and non-financial Assets)

Value Added Tax (amendment) Act 2007

The Social Development Tax Act 2007

Investment Encouragement (Amendment) Act 2007

The Financial and Accountability Procedures Act 2007

Income Tax (amended) Act 2007

The Armed Forces Act 2007

The Medical, Sciences and Technology University Act 2007

The Sciences and Technology University Act 2007

The Holy Quran and Sciences Regionalization University Act 2008

El Butana University Act 2008

Sudan International University Act 2008

Kerari University Act 2008

Rumbek University Act 2008

## 6th session (7th April 2008 - )

National Public Health Act 2008

Measurement and Calibration Act 2008

Metrology and Standards Act 2008

Al-Salam University Act 2008

Council of Developing and Promoting Natural Languages Act 2008

National Council for Population Act 2008

Valuable Minerals and Precious Stones Act 2008

National Council of Childhood Care Act 2008

National Medical Commission Act 2008

National Police Act 2008.

## C: Southern Sudan Commissions

On 27th June 2006, when the SSLA was on recess, the following 14 Southern Sudan Commissions were established through Presidential decree:

Southern Sudan Relief and Rehabilitation Commission

Southern Sudan De-Mining Authority;

Southern Sudan Peace Commission;

Southern Sudan Anti-corruption Commission;

Southern Sudan Human Rights Commission;

Public Grievance Chamber;

Reconstruction and Development Fund;

Civil Service Commission;

Land Commission;

Fiscal and Financial Allocation and Monitoring Commission;

Centre for Census Statistics and Evaluation;

HIV/AIDS Commission;

Audit Chamber;

Employees Justice Chamber.

## D: Personal Report of the Coordinator of the Three Areas Working Group on the AEC visit to Abyei, Agok and Muglad: 28 May 2008

### Observations and Conclusions of the AEC Visit to Abyei, 28 May 2008

Report of the coordinator of the Three Areas working group

On Wednesday 28 may, the Assessment and Evaluation Commission (AEC) visited Abyei-town, Agok and Muglad in order to get a first hand impression of the situation in order to make recommendation to parties how the current situation can be addressed and how the recent developments can be prevented in the future. Acting upon the decision of the AEC Plenary, the visit was organised by the Netherlands as Coordinator of the AEC Working Group for the Three Areas and included senior representatives for both parties such as Minister of Foreign Affairs Deng Alor for the SPLM and Abyei expert Dr. Al Dirdeiry Mohammed Ahmed for the NCP.

#### Abyei-town

In Abyei-town, the AEC delegation received a briefing by the Commander of the Zambian TCC, United Mission in Sudan (UNMIS) and the UNMIS Head of Office in Abyei. The Zambian TCC stressed that due to the continuous build up of troops, the danger of resumption of fighting was present. Key issues discussed with the Zambian TCC and the United Nations Military Observers were the freedom of movement of UNMIS, the need for freedom of reporting. Key observations and recommendations were:

- It is still unclear what led to the clashes and subsequent destruction of (parts of) Abyei-town. The CPC decided to start a full and independent investigation into the events leading to the clashes and destruction.

*Recommendation*: Request the CJMC to start this investigation as soon as possible and call upon the parties to fully co/operate with the investigation including letting UNMIS military observers unfettered access to Abyei.

- According to the United Nations, despite the decision and recommendation of the AJMC and CJMC, parties continue to maintain a large number of troops in the region making the resumption of hostilities a realistic option

*Recommendation*: Implement the CPC-decisions confirming and supplementing the AJMC and CJMC decisions, and immediately withdraw all non-JIU troops and militia, including elements of the former JIU from in and around Abyei in order to create an area of disengagement. The Government should redeploy a new JIU unit as soon as possible which is technically assisted by the United Nations Mission in Sudan and supported by the international community.

- Restrictions imposed by both parties of the freedom of movement for UNMIS are the rule rather than the exception. The restrictions are more stringent for the UNMIS military observers than for the UNMIS civilian component but both short of what is required under the Comprehensive Peace Agreement (CPA) and the Status of Forces Agreement (SOFA).

*Recommendation*: Remove all the restrictions for the UNMIS military observers and UNMIS civilian component so as UNMIS can exercise its duties mandated to it under UNSC 1590 and subsequent resolutions most recently UNSCR 1812.

- UN military observers have no freedom of reporting. If one of the parties does not agree with the scope and content of the reporting, the report does not get filed and the information is lost

*Recommendation*: Ensure optimal and free reporting in line with the UNSC 1590 and the CPA. UNMIS and parties should devise a mechanism that ensures free reporting. The information and reporting should be made more transparent and accessible to the international community.

The delegation was taken on a tour of Abyei-town and was confronted with scenes of mass and organized lootings. The damage to the centre of town, and increasingly in the periphery of town, was extensive.

*Recommendation*: A strong national and international condemnation of the looting, emphasizing the need for immediate actions to ensure the safety of Abyei-town and the belongings of the inhabitants of Abyei

**Agok**

3 July 2008

The AEC delegation subsequently travelled to Agok where the bulk of the Dinka Ngok IDPs have fled to after the clashes started. The delegation was briefed by the UN and other agencies involved in the humanitarian effort. The following observations and recommendations were noted:
The delegation met with representatives of the SPLM in Agok and the Dinka Ngok nine tribal leaders and their deputies who were critical of the role played by the SAF in the recent events. Also UNMIS was criticised for not having reacted adequately to the events. According to the SPLM and Dinka Ngok, the humanitarian effort was appreciated but this was only a temporary solution. The real change and effort should be concentrated on Abyei-town so as to enable a return of the IDPs as soon as possible. They pleaded for the withdrawal of all SAF-forces and Misseriya militia from Abyei-town.

- The number of affected people was estimated to be up to 90.000. Sufficient food and Non-Food Items (NFI) are available but the humanitarian effort would greatly benefit from opening of the northern supply route. Currently, the food and NFIs are taken from pre-positioned stocks in South Sudan which limits the capacity of the UN to answer to any further incidents requiring humanitarian assistance. OCHA Khartoum will be responsible for the needs assessment.

The overflight of Antonovs-planes whether observation or regular/scheduled overflight are causing uncertainty amongst the IDPs and humanitarian assistance staff, and is affecting the efficiency of the humanitarian effort. The SAF is blocking the northern supply route.

*Recommendation*: Refrain from flying Antonov or airplane sorties in the Abyei airspace for the duration of the current crisis thereby creating a de fact humanitarian airspace over Abyei.

*Recommendation*: The SAF should open the northern supply route immediately to create an humanitarian corridor.

*Recommendation*: The parties to work with the UN to do as soon as possible an assessment of the damage to Abyei-town, and cooperate fully with the UN to enable the return as soon as possible of the IDPs to Abyei-town

*Recommendation*: The Government, UN humanitarian agencies and the international community should act together without delay to address the issue of reconstruction to permit the safe and voluntary return of the IDPs as soon as possible.

**Muglad**

In Muglad the AEC delegation met with the Abyei Locality Commissioner and Misseriya representatives led by the Paramount Chief. The Misseriya stated that up to 5.000 Misseriya fled Abyei-town but were absorbed for a great part by the local community. Nevertheless, the Misseriya needed humanitarian support and were concerned about the lack of attention given to Muglad by the international community. Dinka Ngok and Misseriya had always been partners in Abyei-town and should be able to co-exist. The current developments have affected the relations between the Dinka Ngok and Misseriya.

*Recommendation*: Ensure the humanitarian assessment of Muglad and the situation of the Misseriya as soon as possible and allocate commensurate resources to the Misseriya as soon as possible and for parties to co/operate fully with this effort including letting UNMIS establish a permanent presence in Muglad.

*Recommendation*: The Parties to start a reconciliation process between the Dinka Ngok and Misseriya as soon as possible addressing the current and past grievances.

**General Recommendation:** Request the AEC Working Group on the Three Areas, in consultation with the relevant other Working Groups, predominantly the WG on Security Arrangements, to follow up on the recommendations with parties.

END, WGTA, LT, 31 May 2008

## E: Abyei Roadmap: 8 June 2008

## The Road Map for Return of IDPs and Implementation of Abyei Protocol Khartoum, 8th June 2008

### 1. Security Arrangements:

1.1. The JDB shall deploy a new JIU battalion within a maximum of ten days from the date of adoption of these resolutions by the Presidency; the new JIUs battalion shall be constituted from new elements other than those elements of the former Abyei JIUs battalion as per the resolution of the CPC issued on 27/5/2008. The Parties urge the JDB to learn the lessons from the experience with the former Abyei JIUs battalion and expedite training and integration process to make this new battalion a model unit and more effective.

1.2. Police shall be deployed in the area after consultation between the National Minister of Interior and Minister of Internal Affairs of Government of Southern Sudan within two weeks from the date of adoption of these resolutions.

1.3. UNMIS force in Abyei area shall have free movement and access to the north and south of Abyei area to carry out its mandate as specified in the CPA.

1.4. With the deployment of the new JIU battalion and police force in the area and resumption of their duties, SAF and SPLA troops shall be redeployed beyond the Abyei administrative area as per the attached map.

1.5. The Parties condemn the incidents that took place recently in Abyei, and confirm the CPC resolution to immediately investigate the incidents by CJMC plus additional members as shall be agreed upon by the Parties.

3 July 2008

### 2. Return of IDPs:

2.1. The civil population shall return to their former homesteads on completion of the above mentioned security arrangements, which are expected to finish before the end of June 2008.

2.2. The GoNU shall take all arrangements for availing the resources for the return programme of the civil population and with the involvement of the relevant international agencies and organizations, which shall be implemented through the Abyei Area Administration. .

### 3. Interim Arrangements for Abyei Administration:

Without prejudice to the outcome of arbitration as per the provisions of section 4 below, the Parties agree on the following:

3.1 The Presidency shall set up Abyei Area Administration as per the provisions of the CPA within two weeks from the date of the adoption of these resolutions.

3.2 The interim boundaries of the administration of Abyei Area shall be as per the attached map.

3.3 The administration of Abyei Area shall be accorded special administrative status and perform its functions as per the provisions of the Abyei Protocol.

3.4 The Presidency shall appoint Chief Administrator as nominee of the Sudan People's Liberation Movement (SPLM) and Deputy Chief Administrator as nominee of the National Congress Party (NCP) from among the residents of Abyei area as per provisions of the CPA. The Parties shall observe in their nominations considerations of amity, reconciliation and accord.

3 July 2008

3.5 The Chief Administrator, in consultation with Deputy Chief Administrator, shall make recommendations to the Presidency for the appointment of the heads of departments and members of Abyei Area Council from among the residents of Abyei area as per the provisions of the CPA.

3.6 The Presidency to avail the necessary funds to the Abyei Area Administration for delivery of basic services and running of administration in accordance with the provisions of the CPA.

3.7 The Presidency shall initiate the peace and reconciliation in the area in collaboration with the administration of the area and the surrounding communities.

3.8 The Presidency shall work at making Abyei area a model of national reconciliation and peace building

3.9 Without prejudice to the wealth sharing formula agreed upon in the CPA and pending the final demarcation of the Abyei area in accordance with the arbitration award and subject to its outcome, the oil revenue from the oilfields in the areas under arbitration shall be allocated in accordance with the wealth sharing arrangements in Abyei Protocol.

3.10 The Government of National Unity and Government of Southern Sudan shall contribute fifty percent (50%) and twenty-five percent (25%) respectively from their oil revenue share from oilfields in the areas under arbitration to a fund to be established by the Presidency for the development of the areas along the North-South border and financing the joint projects presented to the Third Sudan Consortium in Oslo, Norway, May 2008.

3 July 2008

**4. Arrangements for Final Settlement:**

Without prejudice to the position of either party on the findings of the Abyei Boundaries Commission (ABC) Report, the Parties agree on the following:

4.1. The two parties shall resort to a professional and specialized arbitration tribunal to be agreed upon by the Parties to settle their dispute over the finding of the Abyei Boundaries Commission (ABC).

4.2. The two parties shall work out the terms of reference (compromis) for the arbitration which shall include nomination of professional arbitration tribunal, selection process of the arbitrators, referred issues for decision by the arbitration, procedure of arbitration, decision making process and the enforcement of the award of the arbitration tribunal.

4.3. The parties commit themselves to abide by and implement the award of the arbitration tribunal.

4.4. The entire arbitration process including the issuance of the final award shall be done within a period not exceeding six months from the date of the formation of the arbitration tribunal, and subject to an extension for a period not exceeding three months.

4.5. In case the two Parties failed within one month to reach agreement on the arbitration tribunal or compromis or other terms of reference and rules of procedure for the arbitral process, the Secretary General of the Permanent Court of Arbitration (PCA), the Hague, shall, within fifteen days, designate an institution and finalize the rules of procedures and terms of reference in accordance with the PCA Rules and applicable international practices.

**Signed by:**

***Mr. Dirdeiry Mohamed Ahmed***
**National Congress Party**
**Khartoum, 8th June 2008**

***Mr. Deng Alor Kuol***
**Sudan People's Liberation Movement,**
**Khartoum, 8th June 2008**

**Endorsed by the Presidency:**

***Vice President of the Republic***

***First Vice President of the Republic***

***President of the Republic of the Sudan***

**Annex VI to the letter dated 15 July 2009 from the Chargé d'affaires a.i. of the Permanent Mission of the Sudan to the United Nations addressed to the President of the Security Council**

## Delays in implementing Provisions of the Comprehensive Peace Agreement (CPA) compared to the Matrix imbedded in the Agreement

**30 April 2009**

- ❖ Knowingly the Peace Accord which was signed on 9 January 2005 had initially established a pre-interim period extending for Six Months immediately following the signing of that Agreement in order to set the stage for implementation as well as to establish considerable number of implementing institutions at the forefront of which was the adoption of the interim National Constitution, the formation of the Government of National Unity coupled with the setting up of numerous commissions and joint committees designated for specific functions in the framework of implementing the Agreement.

- ❖ As was rightly hoped, the SPLM was supposed to send its representatives in the National Constitutional Review Commission "within two weeks from the signing date of the Agreement" which meant during a period ending on 23 January 2005 bearing in mind that the two partners successfully inked the draft of the interim constitution in only Ten days within the two weeks allotted for completion of that task. That done, it is also necessary to point that the SPLM delegation appeared in Khartoum only at the onset of the month of April 2005. However, immediately on arrival of the delegation a joint committee was established for contacting other political powers with the objective of reaching an agreement (with them) to participate in the drafting of the interim constitution and consequently participating in the Government of National unity. Those contacts took a considerably long time especially with the national coalition which resulted in postponing the start of work of the commission until 30 April 2005. Consequently that delay caused a slow pace in it's performance resulting in another delay in enabling participation of the national Coalition which also resulted in derailing adoption of the constitution until 8 July 2005, end of the pre-interim period. So, regretfully enough that period expired while only one single provision of the CPA was implemented, namely drafting and adopting the Interim national Constitution. That had naturally derailed implementation of the entire CPA provisions as they were originally designed in the implementation matrixes.

- ❖ Hardly before the elapsing of one month after adoption of the constitution and appointment of Dr. John Garang as First Vice President, President of the Government of South Sudan, there came his demise. Consequently different stages of implementation of the CPA witnessed more delay until the appointment of a new First Vice President and President of the Government of South Sudan.

- The ensuing follow-up implementation phase revealed that the already erected matrix tables were rather over ambitious as practical experience emphasized existing difficulties due to an emerging need to consult with several parties added to some other causes. In addition to that the formation of some commissions and committees depended on the inception of the Government of national Unity and the government of South Sudan as well as state Governments since membership of some commissions and committees depended on that. It is also known that consultations connected with formation of these Governments took time longer than what was **invisiged** for in the CPA. Similarly the same applied to the formation of the National Assembly which normally adopts the necessary legislations for establishing several embryonic institutions of the CPA.

- Without negating that the two partners exercised recognized efforts in honouring their commitments towards timely implementation of the scheduled matrix tables, the SPLM delay in choosing its representatives in some institutions caused another delay in establishing them such as the Border Demarcation Committee between North and South and the National Population Census Council.

**Annex VII to the letter dated 15 July 2009 from the Chargé d'affaires a.i. of the Permanent Mission of the Sudan to the United Nations addressed to the President of the Security Council**

## Major SPLM, SPLA and Government of South Sudan Violations of the Comprehensive Peace Agreement (CPA)

**30 April 2009**

### ❖ SPLM:

- Obstructing the work of the Border Demarcation Committee between North and South Sudan (1.1.1956) by delaying announcement of the name of the South representative for almost one year and a half as well as names of representatives of other Southern states compounded by repeated changes in the names of their representatives in the committee. Added to that their continuing departure for Juba and residing there for prolonged periods.

- Requesting twice postponement of the agreed date for the national census by providing different reasons. This had derailed the process for almost one year. In addition the movement expressed their disagreement on the agreed third date exactly on the date due for the commencement of the census which confused the ongoing work and caused great financial loss in addition to delaying the census for one more week.

    - It is well established that delay in completion of the census exercise and border demarcation between North and South had caused delays in the announcement of the date set for national elections.

- Inability to agree for almost two years to establish an interim administration for ABYEI which was originally proposed by the National Congress and endorsed by the International Community following disagreement of the two partners on the geographical boundaries of the ABYEI area. That position incurred great harm on the interests of the population in the area regarding the provision of basic human services and voluntary repatriation of the internally displaced.

- Failure to call and synthesize for national unity in commitment to the provisions of the Comprehensive Peace Agreement (CPA) and sending instead overt or covert signals encouraging cessation or at best embracing a neutral stand.

- Escalated an Internal and external media campaign and continued a negative approach towards the implementation of the Peace Agreement (example: SPLM Deputy Secretary General).

- Inciting hatred and deepening of mistrust by hammering on historical slavery and GALABA entity (northerners) and the like (example: SPLM Secretary General).

- Continued accusations against their partners (National Congress) for marginalizing the less developed areas and extending animosity towards their population (example: SPLM Deputy Secretary General).

- Failure to perform within the spirit of collective responsibility be it political or executive (the movement is a basic partner in the Government but it is an opposition at the same time) examples:

- Freezing of SPLM participation in the Government of National Unity for a period extending to two months for very weak reasons since they basically stand at the centre of responsibilities with the other partner both at the political and executive levels. The responsibility could not be placed executively on the shoulder of NCP. The movement then returned back to government after securing agreement on a proposed list from their part requesting reshuffling in the ministerial positions prescribed for them in the Government of National Unity.

- Adopting a strategy of escalated political and media campaign (contrary to what had been agreed upon in the Council of Ministers and National Assembly) concerning the formula of accepting the international forces in DAR FUR as well as the government position vis-à-vis the ICC.

- Rapprochement and further allying with parties opposed to the Government of National Unity during elections of workers syndicates and student unions.

- Attempts aiming at building alliances with the opposition parties during the coming elections while alienating the partner (NCP).

- Calling for lifting of unilateral US economic sanctions against Sudan from the South.

- Non commitment to the ABUJA Peace Accord in DAR FUR by unilaterally co-ordinating with non-signatory movements in addition to providing training in the south for the commanders and Troops of such armed movements seeking as well to infiltrate them into DAR FUR.

❖ **SPLA:**

- Unwillingness to submit the initial figures of their forces, their Assembly positions and armament to facilitate implementing the necessary ceasefire procedures.

- Non adherence of SPLA to remain in their designated camps as had been stipulated in the CPA and their interference in the civil lives of the population in towns and villages.

- Deploying to new sites, even after the signing of the peace agreement, equally in the south and the two states of south KORDOFAN and Blue Nile in addition to ABYEI.

- Mobilizing by drafting and arming in the south and in the ceasefire zone in the North.

- Importing of heavy weaponry from abroad via Juba airport and other airports and by land across the borders and also through MUMBASA port (the aircraft incident at Juba airport and the high jacked ship and KURMUK incident).

- Exercise of civilian duties through their intelligence agents and collection of customs and excise duties at the borders and in the interior.

- Adopting delaying tactics in order not to redeploy south. The UN certified that only 13.7% of the initially SPLA stated figures have actually redeployed south.

❖ **Government of South Sudan (GOSS):**

- Encroachment on the national exclusive competences, such as:
  - Borders and National Defense.
  - Passport and Immigration.
  - Communications.